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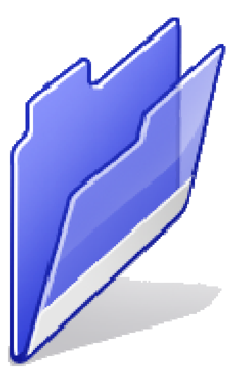
11/21/2017
Agenda Item No. 13H

# ATTACHMENT RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION



Appraisal Institute®

*Professionals Providing Real Estate Solutions*

http://www.appraisalinstitute.org/appraisal-institute-supports-bill-enhancing-consumer-protections-for-pace-loans/

## Appraisal Institute Supports Bill Enhancing Consumer Protections for PACE Loans

April 26, 2017 08:00 AM

CHICAGO (April 26, 2017) – The Appraisal Institute joined more than two dozen other real estate organizations Monday in expressing support for federal legislation that would enhance consumer protection requirements for Property Assessed Clean Energy loans, known as PACE loans.

The nation's largest professional association of real estate appraisers, the Appraisal Institute signed a letter to the U.S. Senate and House sponsors of S. 838 and H.R. 1958, the Protecting Americans from Credit Entanglements Act of 2017. Other trade and professional associations signing the letter represent real estate professionals, home builders, and mortgage lenders and servicers.

PACE loans are mortgage financing and, the groups say, should be subject to federal consumer protection requirements. The bill would provide these loans the same Truth in Lending Act consumer protections required of other mortgage products, including the Consumer Financial Protection Bureau's "Ability-to-Repay" and "Know Before You Owe" rules and Home Ownership and Equity Protection Act standards.

"PACE loans are – in substance – consumer loans secured by real property and should be subject to federal consumer protection requirements, not dependent on a patchwork of limited or non-existent state/municipal laws that do not adequately protect homeowners," the letter said.

PACE loans were developed to help finance energy-efficient retrofits on real property, such as solar panels and energy-efficient appliances and windows. While PACE program specifics vary by state and municipality, these loans usually are initiated by the private companies approving contractors to make these improvements, with financing from proceeds raised by issuing municipal revenue bonds. The bonds are secured by the payments on the PACE loan obligation; the loan payments are added to the borrower's property tax bill and then paid through property tax installments – normally over 15 or 20 years. The outstanding PACE loan obligation then runs with the property (not the borrower) going forward.

“Although PACE loan obligations have all the attributes of a mortgage product, they are not subject to federal consumer protection requirements – as this alternative financing structure has been misclassified as a tax assessment rather than a loan,” the letter said. “Consequently, a standardized, comprehensive disclosure framework does not exist for PACE loans. Moreover, there are no requirements for an assessment of a borrower’s income, credit history, outstanding credit obligations, or expected monthly payments in connection with PACE products. Instead, PACE financing today is often based on a borrower’s equity in their property and their mortgage and property tax payment history, rather than on their true ability to repay their financial debt.”

Besides the Appraisal Institute, the letter was signed by 27 groups:

- American Bankers Association
- American Land Title Association
- Arkansas Land Title Association
- California Association of REALTORS®
- California Bankers Association
- California Credit Union League
- California Land Title Association
- California Mortgage Bankers Association
- Connecticut Mortgage Bankers Association
- Credit Union National Association
- Florida Land Title Association
- Housing Policy Council of the Financial Services Roundtable
- Independent Community Bankers of America
- Missouri Land Title Association
- Montana Land Title Association
- Mortgage Bankers Association
- Mortgage Bankers Association of Arkansas

- Mortgage Bankers Association of Florida
- Mortgage Bankers Association of Missouri
- National Association of Federally-Insured Credit Unions
- National Association of Hispanic Real Estate Professionals®
- National Association of Home Builders
- National Association of Real Estate Brokers
- National Association of REALTORS®
- New England Land Title Association
- Real Estate Service Providers Council
- The Realty Alliance.

The real estate groups addressed their letter to the bills' sponsors: Sens. Tom Cotton, R-Ark., John Boozman, R-Ark., and Marco Rubio, R-Fla., and Reps. Brad Sherman, D-Calif., and Edward Royce, R-Calif.

S. 838 was referred to the Committee on Banking, Housing, and Urban Affairs on April 5. H.R. 1958 was referred to the House Committee on Financial Services on April 5.

Read the real estate organizations' Senate letter and the House letter.

https://www.mba.org/issues/residential-issues/property-assessed-clean-energy-(pace)-lending

# Property Assessed Clean Energy (PACE) Lending Presents Serious Consumer and Industry Risks

MBA believes that energy efficient home improvements can be beneficial for homeowners; however, MBA has significant concerns with the PACE program construct and the risk it poses to traditional lien priority. Moreover, recent moves by the Federal Housing Administration (FHA) to permit PACE financing ahead of an FHA mortgage amplify critical concerns about PACE's lack of consumer protections, the increased risks to the Mutual Mortgage Insurance (MMI) Fund, and the significant compliance and indemnification risks for lenders and servicers.

**Overview:**

- PACE programs have been implemented in jurisdictions throughout the country, and their exact structure, terms and conditions vary by program, state and municipality. Energy improvement and water efficiency products available for financing also vary-ranging from solar panels to energy efficient appliances, windows, etc.
- Typically, private companies initiate PACE loans by approving a contractor to make these energy improvements, often funded by proceeds raised through the issuance of municipal bonds.
- A borrower's PACE loan payments are added to their property tax bill as a special assessment, to be typically paid over 5 - 25 years.
- The PACE loan's integration with property taxes effectively grants a priority status over both existing and future mortgages, thereby undermining the collateral position of the first mortgage.
- The outstanding PACE loan obligation typically runs with the property, not the borrower.
- Given the repayment of PACE loans through the tax structure, delinquent PACE amounts may become senior in lien priority to prior recorded mortgages. This concern and others spurred the Federal Housing Finance Agency (FHFA) in June 2012 to prohibit Fannie Mae and Freddie Mac (the GSEs) from purchasing mortgages where the property has a PACE loan attached. FHFA clarified this position again on December 23, 2014, in a statement asserting that the GSEs may not purchase single-family home loans that are subject to a primary lien assessed through a PACE lending program.
- On July 19, 2016, FHA issued Mortgagee Letter 2016-11, which for the first time permits FHA financing to purchase or refinance properties with energy-related home improvements attached, financed through a PACE program.
- The Department of Veterans Affairs simultaneously released its own PACE guidance, Circular 26-16-18, which is parallel to FHA's guidelines.

**PACE Compatibility With FHA-Insured Financing:**

- FHA has established the following requirements that must be met in order for a property to be eligible for FHA-insured financing with a PACE loan obligation:
  - A PACE obligation must be collected and secured by the creditor in the same manner as a special assessment against the property.
  - A property may only become subject to an enforceable claim (i.e., a lien) that is superior to the FHA-insured mortgage for delinquent regularly scheduled PACE special assessment payments. The property may not be subject to an enforceable claim superior to the FHA-insured mortgage for the full outstanding PACE obligation at any time; however, a notice of lien for the full PACE obligation may be recorded in the land records.
  - There can be no terms or conditions that limit the transfer of the property to a new homeowner.
  - The existence of a PACE obligation on a property must be readily apparent in the public records and must show the obligation amount, the expiration date, and cause of the expiration of the assessment. In no case may default accelerate the expiration date.
  - A property with an outstanding PACE obligation, in the event of the sale (including a foreclosure sale), will continue with the property causing the new homeowner to be responsible for the payments on the outstanding PACE amount.
  - For properties with existing PACE obligations, the sales contract must indicate whether the obligation will remain with the property or be satisfied by the seller at or prior to closing, and all terms and conditions of the PACE obligation must be fully disclosed to the borrower and included in the sales contract.
  - Where energy and other PACE-allowed improvements have been made to the property, and the PACE obligation will remain outstanding, the appraiser must analyze and report the value of the property of the PACE-related improvements and any additional obligation (i.e., the PACE special assessment) on the value of the property.
- These policies are not applicable to FHA Home Equity Conversion Mortgage (HECM) or Title I Loans.
- **Note:** This FHA policy is effective immediately. Members are encouraged to review Mortgagee Letter 2016-11 and updates to FHA's Single Family Housing Policy Handbook 4000.1 with counsel and appropriate compliance staff.

**MBA's Concerns:**

- **Risks for Participating Lenders and Servicers:**
  - *Lenders are responsible for determining if a PACE program is compliant with FHA's guidelines*. Therefore, PACE program eligibility is structured as a lender warranty, circumscribed by general requirements and standards that PACE programs must meet to be eligible for FHA financing. This framework could expose lenders to both

indemnification and False Claims Act risk due to the lack of standardization that exists among PACE programs across the country.

- **Lack of Consumer Protections:**
    - *PACE loans do not offer the disclosures typically associated with real estate financing.* As a result, homeowners may not fully understand the consequences of assuming an increased financial obligation on their tax bill. These borrowers also may not be able to effectively compare the cost of a PACE loan to that of more conventional financing (such as home equity lines of credit (HELOCs) or second mortgages).
    - *PACE financing is generally based on the property's tax capacity, rather than on the borrower's ability to repay.* Notably, PACE loans are not covered by the CFPB's Ability to Repay rule. These loans also typically carry interest rates far higher than conventional mortgage loans-often ranging between six and ten percent. This may allow borrowers to assume an obligation that significantly increases their property tax payments even if they are not financially equipped to make the new payment.
- **Increased Loss Severity to FHA's MMI Fund:**
    - *FHA has not removed lien priority concerns by simply indicating that a PACE loan is a tax assessment.* Due to this categorization, PACE obligations will still have priority over previously recorded liens, and more specifically FHA guidance still allows a property to become subject to a lien superior to the FHA-insured mortgage for delinquent PACE loan amounts.
    - *FHA has not provided appraisal guidance or standards for the evaluation of energy efficient home improvements under PACE.* Yet appraisers are required to analyze and report the impact of PACE energy improvements on the value of the property. This poses a risk that improvements or cost savings may be overvalued, as benefits are often difficult to quantify.
    - *Remaining PACE obligations may impact the salability of the FHA-insured property.* With the outstanding PACE loan obligation running with the property, borrowers who later sell may find themselves having to pay off the outstanding PACE loan per buyer demand, or agreeing to a lower sales price. In some cases, borrowers may find themselves underwater, precipitating a default and a claim on the MMI Fund. Moreover, in the event of a foreclosure, the presence of the PACE obligation could result in the property being sold at a discount. As a result, the FHA insurance will ultimately take a hit.

**<u>MBA's Position / Next Steps</u>:**

- MBA has asked the Consumer Financial Protection Bureau (CFPB) to intervene on PACE's significant consumer protection issues and continues to urge FHA to slow implementation and engage with industry and consumer groups to address many of the problematic aspects of its PACE guidance.
- MBA believes the best way to address PACE program consumer protections is through a formal regulatory framework that ensures PACE loans have the same protections as other

home improvement financing options secured by a mortgage under the federal mortgage rules. MBA strongly recommends that PACE obligations be classified as consumer credit transactions secured by a dwelling, to ensure that borrowers are covered by federal consumer protection laws, as are the entities that originate PACE loans.

- MBA urges members to carefully review the consumer and lender risks before participating in this program and encourages members to evaluate alternative means to help consumers finance energy efficient improvements that better protect consumers at lower costs, including existing home equity products and recent energy efficiency products released by the GSEs.

KernTax

Facts Through Research

April 16, 2017

Supervisor Zack Scrivner and Members of the Board of Supervisors
County of Kern
1115 Truxtun Avenue
Bakersfield, CA 93301

Mayor Karen Goh and City Council Members
City of Bakersfield
1600 Truxtun Avenue
Bakersfield, CA 93301

**RE: Kern Tax Position Concerning PACE**

Chairman Scrivner and Mayor Goh:

KernTax has established a robust set of guideposts regarding taxes, fees and other governmental assessments that are obligations of our taxpayers. It is in alignment with our principles that any requirement that subordinates the first lien (i.e., the mortgage) is placed (as an obligation) in the same cash flow position as any tax.

KernTax views any government collection of funds through any financial conduit to be taxation, be it clearly identified as a tax, a fee for government service or a fixed rate structure. If it is excessive or not appropriate, KernTax must, by charter, educate, expedite resolution and ensure fair representation and treatment. We do not seek subsidies; we are looking for fair a return to our local citizens from all regulatory bodies and their agents for levied taxes, or fees.

KernTax cannot support the assignment of a tax-like burden levied for the benefit of private parties, in this case homeowners and environmentally driven contractors (even if established through negotiation). This assignment of responsibility while it may be fair in the context of payment for services should be relegated to other equally appropriate transactions and not levied as if determined through legislation or regulatory fiat. A reasoned person could argue that lenders will be less inclined to enter into financial terms where risk of subordination of their rights are high in the event of failure to pay the note payable. One could alter the question and ask would the city or county support such a program if it subordinated the taxes? The logical answer is no; the taxes are levied by duly approved taxing actions for the benefit of the public good.

The notion that single private transactions have the same benefit is hard to assess on a specific installation basis. Cost-benefit analysis would have to presume a reasonable return in the same vein as utility capital expenditures. However, this is no regulated market where the general community is assured that the individual home improvement transactions are justly priced when risk of a poor financial transaction is assigned to a tax-like position as opposed to a lender's assessment of a home improvement loan as a second lien.

Will we see more synthetic tax-like structures for whatever the state and lobbyists want but haven't money or legislative will to tax? KernTax cannot ignore this issue and take our rightly guided positions concerning generally assigned taxes which we oppose without proper review and knowing consent. We believe that efforts to mitigate the problems created by the well-meaning PACE program yield some improvement but potential price gouging, gold plating, bankruptcy conflicts, taxations issues, foreclosure issues would not exist if the PACE program did not create them. This synthetic financing instrument created as policy without consideration to normal home buying practices allows a person who otherwise could not and arguably should not borrow to buy environmentally desired installations to obligate themselves and future purchasers to a non-market payment structure that may have been priced far above reasonable market prices had the installation been subject to a review for home improvement. Over priced home improvements will lower resell values and lead to more foreclosures and the gradual de-gentrification of neighborhoods as homes go on the market and remain unsellable due to the PACE burden.

If the program is to remain in place and since this has regulatory overtones, we advocate for a regulated model with truth in lending with mandated open book deals (at cost plus 12%) with a posted price comparison for similar projects done without PACE money or require three competitive bids with a signoff from the first lien holder. We also believe the taxing agency should be obligated to hold the first lien holder and their assigns harmless and not pass the obligation on to others.

Respectfully,

*Michael Turnipseed*
Executive Director

Ten Other Ways to Finance Energy-Efficient Home Improvements- programs are available to help finance energy-efficient home improvements in additional to traditional financing such as a home equity line of credit....

1. Energy Efficient Mortgage (EEM): This loan program allows borrowers to finance cost-effective energy-saving improvements as part of a single mortgage. These mortgages make it possible for property owners to borrow above the appraised value and stretch debt-to-income qualifying ratios. To ensure the effectiveness of EEMs and to make certain proper upgrades are performed, these loans require an energy audit. EEMs are a Federal Housing Administration (FHA) product, but the Veterans Administration (VA) has its own version.

2. Federal Housing Administration PowerSaver Loans: This loan program offers three financing options for home owners to make energy-efficient and renewable energy upgrades to their homes.

3. PowerSaver Home Energy Upgrade (Up to$7,500): This program can be used by home owners with manageable debt and a credit score of 660 or higher for smaller projects, such as insulation, air and duct sealing, water heating, and upgrading or replacing heating and cooling equipment. Loans of this kind do not require a home appraisal or lien on the property and are insured by FHA.

4. PowerSaver Second Mortgage (Up to $25,000): This program is for larger retrofit projects, including energy efficiency, solar photovoltaic, solar hot water, geothermal, or other renewable energy projects. A home appraisal and sufficient equity are generally required, and borrowers will likely not qualify if they already have a second lien or second mortgage on the property.

5. PowerSaver Energy Rehab (203(k) First Mortgage up to FHA Loan Limits): This program is for the purchase or refinance of a home. At least$3,500 of the home improvements must consist of eligible PowerSaver measures. FHA insures the mortgage with the improvement project.

6. HomeStyle® Energy Mortgage: This Fannie Mae program allows borrowers to make energy-efficient or utility-cost-reducing upgrades within the mortgage when purchasing or refinancing a home. This program also offers $3,500 for certain types of weatherization and water-saving improvements.
NOTE: Fannie Mae allows those with a PACE loan to finance with this program.

7. HomeStyle® Renovation Mortgage: This Fannie Mae program allows borrowers to make renovations, repairs, and improvements totaling up to 50 percent of the as-completed appraised value of the property with a first mortgage.

8. Freddie Mac Renovation Mortgage: This program allows borrowers to repair restore rehabilitate, or renovate their existing site-built homes within a Freddie Mac mortgage.

9. The Southern California Gas Company Home Energy Upgrade Financing (HEUF)

Program: This program offers loans ranging from $2,500 to $20,000 for the purchase and installation of energy-efficient upgrades. Eligible technologies include water heaters, refrigerated air conditioners, evaporative coolers, double-pane windows, building and equipment insulation, roofing, spa/ pool heaters, insulated plantation shutters, and permanently installed natural gas barbecues.

10. The California Housing Partnership Corporation Ratepayer Integrated On-Bill Payment Program RI PP) is tailored to low-income multifamily rental properties and allows retrofit costs to be included in a tenant's energy bill.

## Reasons PACE is not working:

**1. Not for the Public Good.** This type of financing not be allowed on the property tax roll. Period! Assessments should only be placed on the property tax roll for the overall good of the public, such as fire, trash and safety assessments. Even school bonds must be passed by the voters because it can't be considered a public good because the argument could be made that it schools do not necessarily benefit all. This is a bad policy.

**2. Predatory Lending**: Qualification is based on home equity rather than on the borrower's ability to repay, which violates the U.S. Department of the Treasury's prohibition against predatory lending practices.

**3. Structured as a Property Tax Assessment**: Because the amount borrowed is structured as a property tax assessment, it attaches to the property itself rather than to the owner, which negatively affects the owner's ability either to sell the property or to refinance it and restricts a potential buyer's ability to qualify for a mortgage on the property.

**4. "Super-Priority" Lien**: The amount borrowed is structured as a "super-priority" lien on the property, which means that, in the event of default, the PACE loan takes repayment priority over even the first mortgage. This arrangement violates the conditions spelled out in most mortgage agreements, negatively affects the owner's ability either to sell the property or to refinance it, and restricts a buyer's ability to qualify for a new mortgage on the property.

**5. No Proof of Benefit or Value**: Because the energy- efficient home improvements financed with PACE programs are often sold without either a home energy audit or a third-party certification of their operational effectiveness, the home owner has no basis for performing a cost-benefit analysis or for assessing the true value of the improvements.

**6. No Utility Cost Offset**: The home owner is told that he or she will save enough on utility bills to cover the cost of the energy-efficient upgrades, but this utility cost offset seldom materializes. More often, the hapless home owner ends up deep in the red.

**7. Price Inflation**: PACE contractors inflate their prices for energy-efficient renovations, often charging far more than fair market value.

**8. No Financial Oversight**: Most of the contractors pitching PACE financing options have no financial expertise, and their offers and promises are not currently being scrutinized by any financial institution or government agency.

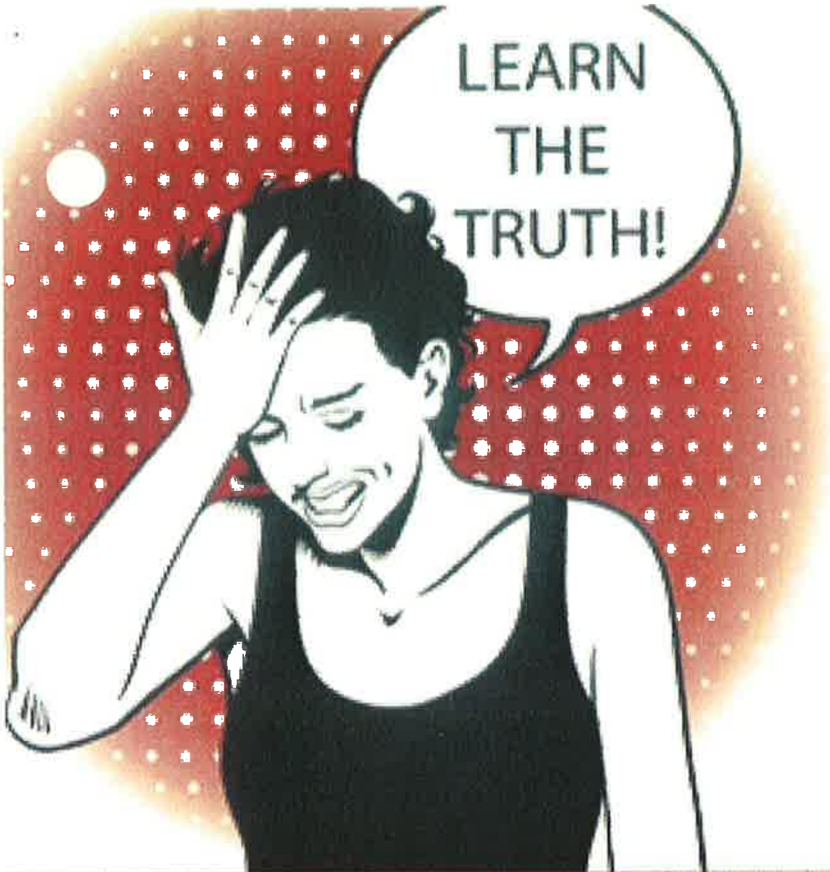
**9. High Interest Rates**: The interest charged for PACE financing can be as much as twice the amount charged for a home equity loan or on loans obtained via other financing alternatives.

**10. Inadequate Disclosure**: Often the total cost (with applicable fees and interest), the yearly payment amount, the actual payoff schedule, and the anticipated payoff date are not properly disclosed up front.

**11. Large Payoff Penalties**: The penalties for early payoff are large and may include extended interest payments.

**12. Harsh Late-Payment Penalties**: Late payment or failure to pay is penalized in the same way as failure to pay property taxes and could result in foreclosure.

**13. Automatic Default**: A home owner whose mortgage agreement specifically prohibits any other loan or lien from taking priority over the first mortgage-and most do-will be automatically in default. Thus, the lending institution holding the first mortgage can require accelerated payment or initiate foreclosure.




# Don't let PACE be a *SLAP* in the Face

**LEARN THE TRUTH**

PACE is a program that finances these improvements through property taxes. Some PACE lenders include HERO, YGRENE and California First.

However, these are **NOT government programs**.

They are operated by government-approved third parties.

- The **PACE lien is NOT automatically transferable** during the sale of a property.
- **Interest rates on the loan are high** – resulting in an APR that is often more than 10%.
- **PACE loans are 100% guaranteed by your house** – so providers can foreclose if you can't afford to pay.
- **Some contractors work as loan originators/agents for PACE lenders** and inflate the cost of renovations well-above market.
- **Thousands of dollars can be added to your property tax bill** and impact your monthly mortgage payment.

**Programs exist to help you pay for improvements that would make your property more energy-efficient and save you money.** But, if not careful and well-informed, you could end up unable to afford staying in your home.

**Home improvements are not a public good.** Government should not be in the business of collecting assessments for private corporations.

City (661) 326-3767 • County (661) 868-3601

**Our County and City officials need to stop PACE until legislation is passed that protects property owners from these financial schemes.**

*Bakersfield Californian – April 1, 2017*

## CHEERS & JEERS

# Seniors were taken advantage of

We were in a big-box store two years ago and stopped at the air conditioning kiosk. Before we knew it, we had signed papers to install a unit on our house, on a weekend, with full assurance that we could write off the entire $23,000 expense.

Not till we filed our tax return the next year did we find out that we could not deduct one penny. We are both 75 and do not make enough money or owe enough to deduct any of the $23,000.

We called the company, and the owner and one of his representatives came to our home. They both said that it was a fair price and that they are honest church people.

In retrospect, when the salesman found out our house was paid for he couldn't add enough items to the unit and never asked if we could pay for it.

We face very large interest charges if it is paid off before six years, and if we take the full 15 years it comes to over $50,000. Our house has a lien against it. That means we can't sell our house until the unit is paid off.

The lesson: Get three or four estimates prior to doing any major home improvement project. We thought that coming through this reputable big-box store it would be a really great deal. We have since filed a complaint with the District Attorney's office and Greater Bakersfield Legal Assistance.

— *Margaret and Thomas Smith, Bakersfield*

**Bakersfield California 4/25/17**
**COMMUNITY VOICES | Pro-Con on PACE**

# PRO: Jobs are on the line if PACE goes away

DON LAINER

With misinformation swirling through our community, it's time to set the record straight about Property Assessed Clean Energy financing, or PACE, why it exists, and the benefits it's bringing to our community.

There are hundreds of jobs on the line — local jobs that allow men and women across Kern County to put food on the table for their families, gain valuable skills and create opportunity for many people who love what they do and might not have many other options.

With so much at stake, cooler heads must prevail in the community conversation about Bakersfield's PACE program, whether it's before the City Council or in this newspaper. Just recently, this very page was filled with outright falsehoods, scare tactics and generalized inaccuracies that seem to have been copied and pasted from an Orange County Realtors website. This community — and our economy — deserve better. They deserve facts and a constructive conversation about how to keep a good program, which thousands of homeowners have already utilized, working for all of us.

So what is PACE and why does it exist? Every year, one in six homeowners chooses to replace — or are forced to replace — a feature of their home that affects their energy bill. Whether it's their air conditioner, windows, or a water heater, most Americans choose the inefficient option with a lower sticker price, instead of the equipment that would save more money and energy in the long run. It's easy to see why: these can be big — and often unplanned — purchases. When considering ways to pay for them, people don't always have access to home equity loans, while the interest rates that come with credit cards may not fit a family's budget.

PACE financing overcomes these problems. Eligibility is based on your record of on-time mortgage and tax payments, as well as the equity in your home, and PACE financing is repaid through an additional line item on your property tax bill.

By spurring home improvement activity, PACE has been a real job creator for our community. We've hired dozens of people at our own businesses thanks to PACE, and the PACE providers we work with estimate that their financing in Bakersfield has created more than 500 jobs across the region.

As PACE has grown, it has also affected how the whole home improvement marketplace works because of the consumer protections that PACE companies require of us. For starters, we don't get paid until a homeowner signs off that they are satisfied. The PACE companies also require all contractors they work with to be certified by the Contractor State Licensing Board.

There have also been new rules put in place. Because of state legislation passed last year, all PACE providers now have "Know-Before-You-Owe" disclosure requirements based on those mortgage companies must provide — even though PACE assessments are, on average, one-10th the size of a mortgage. A new state bill would require all PACE customers to receive live, recorded phone calls to confirm the terms of financing.

Here's the big picture: PACE is working for Bakersfield and Kern County. Thousands of homeowners have utilized PACE to improve their homes, save on utility bills and live more comfortably. It is creating hundreds of jobs when we've needed them most. Community leaders have a responsibility to boost our economy, create opportunity, and find ways to improve our neighborhoods without spending taxpayer dollars. PACE checks each of those boxes and we need to remember that during this debate.

*Don Lanier is branch manager of Northwest Exteriors in Bakersfield. He wrote this with input from Rick and Ernie Montoya of BSW Roofing; Mark DeVries of Monarch Home Services; Ben Dominguez of Oasis Air Conditioning; and Glenn Bland of Bland Solar. All are of Bakersfield. The opinions expressed are their own.*

# CON: Unforeseen drawbacks have surfaced

Harold Hanson

A new trend is sweeping across Kern County, offering people upgrades to their homes with energy-efficient improvements. It goes by several names, but the most common in Bakersfield is HERO — Home Energy Renovation Opportunity.

Through the Property Assessed Clean Energy Program, or PACE, homeowners borrow money for the improvements as a property tax assessment that attaches to the property and appears on the homeowner's property tax bill. The amount borrowed — the PACE loan — is structured as a super-priority lien on the property and it takes precedence over even the first mortgage upon refinancing or selling property.

The goal of this program is to help homeowners reduce their utility bills by upgrading their homes with energy and water-saving home improvements. Sounds great, right? Who wouldn't want to see a decline in their energy bills while reducing their carbon footprint and helping the environment?

Unfortunately, unforeseen drawbacks to the program have surfaced. In many cases, homeowners have been misinformed as to the exact conditions of the program and have run into serious problems when selling or refinancing their homes. Most disturbing, when homeowners wish to sell their homes they are required to pay in full the HERO loan as well as other liens on the property. In many cases, homeowners find themselves in a negative position and unable to close the sale.

Further, Fannie May and Freddie Mac prohibit participation of these types of programs. In spite of this fact many homeowners are not informed about this restriction and by participating in the program put their loans at risk.

Bottom line is that HERO is an equity type program versus an ability to repay loan. This is a very dangerous road to follow for the homeowner. There is no evaluation in place that looks at the ability to repay. This is particularly true of homeowners on fixed incomes.

The last thing the City of Bakersfield should be is associated with is the foreclosure of a home due to the homeowner's inability to repay the increased property tax payments.

High-interest rates have also plagued the program. There have seen instances where rates have been almost twice the amount of a traditional home equity loan. The high interest rates on these programs cause homeowners to pay more than their original agreed upon price, for improvements such as paint, artificial lawns, air conditioners and windows.

The PACE program was introduced to the citizens of Bakersfield with the intent to provide homeowners the opportunity to make energy-efficient home improvements at an affordable price. However, this has become a nightmare to some local residents. Home sellers of Bakersfield are finding themselves subject to financial burdens and many have faced foreclosures.

*Harold Hanson of Bakersfield, a banker by trade, served as the Ward 5 city councilman from 2000 to 2016 and was vice-mayor during his last term. The opinions expressed are his own.*

**Bakersfield Californian**
**March 27, 2017**

**COMMUNITY VOICES**

# A dozen problems homeowners may have with PACE program

MIKE GEORGE

There is much more that consumers need to know about Property Assessed Clean Energy programs, which are one way to finance energy-efficient home improvements.

Unlike other available energy improvement programs, PACE financing attaches to the property in the form of a tax lien. Although loans of this type sound attractive, PACE programs create serious problems.

PACE financing is not for the public good and should not be allowed on or collected through the property tax rolls. It should not be the role of government to collect payment for private enterprise. Assessments should only be placed on the property tax rolls for the overall good of the public for items such as fire, trash and safety assessments. Even school bonds must be passed by voters for an assessment to appear on property tax bills. This is just bad policy.

Here are 12 more problems with PACE:

1. Predatory Lending: Qualification is based on home equity rather than on the borrower's ability to repay, which violates the U.S. Department of the Treasury's prohibition against predatory lending practices.

2. Structured as a Property Tax Assessment: Because the amount borrowed is structured as a property tax assessment, it attaches to the property itself rather than to the owner, which negatively affects the owner's ability either to sell the property or to refinance it and restricts a potential buyer's ability to qualify for a mortgage on the property.

3. "Super-Priority" Lien: The amount borrowed is structured as a "super-priority" lien on the property, which means that, in the event of default, the PACE loan takes repayment priority over even the first mortgage. This arrangement violates the conditions spelled out in most mortgage agreements, negatively affects the owner's ability either to sell the property or to refinance it, and restricts a buyer's ability to qualify for a new mortgage on the property.

4. No Financial Oversight: Most of the contractors pitching PACE financing options have no financial expertise, and their offers and promises are not currently being scrutinized by any financial institution or government agency.

5. No Proof of Benefit or Value: Because the energy efficient home improvements financed with PACE programs are often sold without either a home energy audit or a third-party certification of their operational effectiveness, the home owner has no basis for performing a cost-benefit analysis or for assessing the true value of the improvements.

6. No Utility Cost Offset: The homeowner is told that he or she will save enough on utility bills to cover the cost of the energy-efficient upgrades, but this utility cost offset seldom materializes. More often, the hapless homeowner ends up deep in the red.

7. Price Inflation: PACE contractors inflate their prices for energy-efficient renovations, often charging far more than fair market value.

8. High Interest Rates: The interest charged for PACE financing can be as much as twice the amount charged for a home equity loan or on loans obtained via other financing alternatives.

9. Inadequate Disclosure: Often the total cost (with applicable fees and interest), the yearly payment amount, the actual payoff schedule, and the anticipated payoff date are not properly disclosed up front.

10. Large Payoff Penalties: The penalties for early payoff are large and may include extended interest payments.

11. Harsh Late-Payment Penalties: Late payment or failure to pay is penalized in the same way as failure to pay property taxes and could result in foreclosure.

12. Automatic Default: A homeowner whose mortgage agreement specifically prohibits any other loan or lien from taking priority over the first mortgage — and most do — will be automatically in default. Thus, the lending institution holding the first mortgage can require accelerated payment or initiate foreclosure.

*Mike George, a longtime Bakersfield resident, owns Agape Mortgage.*

http://www.bakersfield.com/opinion/what-homeowners-should-know-about-pace-clean-energy-program/article_fd6e192b-f432-5510-b71f-50b08d00566b.html

# What homeowners should know about PACE clean energy program

By Bill Redmond Oct 31, 2016

Bill Redmond is the 2016 president of the Bakersfield Association of Realtors.

What drawbacks could there possibly be with a government-sponsored program to enable homeowners in Kern County to reduce their utility bills while helping to save the environment? Plenty.

First, here's some background about this important issue. Fact: The Property Assessed Clean Energy program allows homeowners to finance through an assessment on their property various energy conservation-related improvements, such as energy-rated water heaters, windows, and solar panels.

Fact: When the house is sold, the assessment may transfer with the property and become the responsibility of the new owner. However the majority of mortgages prohibit this transfer.

Fact: The loans are repaid over as long as 20 years. A PACE lien is similar to a property tax lien. In fact, it's a line item on the homeowner's property tax bill and is paid at the same time and in the same way as property taxes. There are definitely some downsides and hidden risks to this increasingly popular program that should concern every homeowner.

Here are five key realities about PACE liens:

**Reality No. 1:** You may wind up borrowing too much on your property because the limits are very generous. For example, the owner of a $400,000 home could borrow up to $60,000 on their home. Caution is needed to avoid overleveraging your home with a PACE lien. Like a mortgage, the PACE lien comes out of your equity. Unlike a mortgage where a lender, by law, is required to ensure you can afford the payment, PACE lenders are under no such obligation, which could lead homeowners to overleverage their homes.

**Reality No. 2:** You may not be able to refinance your mortgage with a conventional mortgage. Fannie Mae and Freddie Mac are prohibited from purchasing mortgages with PACE liens on them because as tax liens, they put lenders in a secondary position if the loan cannot be repaid.

**Reality No. 3:** A PACE lien can be very expensive. Interest rates and fees are generally much higher than those for mortgages or home equity lines of credit. Worse, you will likely have to pay off the lien in order to sell the property to a buyer who wants to obtain conventional financing. Paying off a PACE lien will reduce the amount you can realize from the sale of your home, and in some cases, could impose a financial hardship and make the home impossible to sell.

**Reality No. 4:** You may have a hard time finding potential buyers for your home. Because Fannie Mae and Freddie Mac will not approve mortgages for properties with an existing PACE lien, conventional buyers will not be able to purchase your property unless the lien is paid off before the close of escrow. This will limit your buyer pool because Fannie Mae and Freddie Mac guarantee approximately 60 percent of all mortgages.

**Reality No. 5:** Limited mortgage options can create an unfortunate ripple effect. If fewer people can buy your property, it may take longer to sell. The longer the house sits on the market, the less desirable it may become, which could result in a lower sales price. As many home sellers in Kern County have discovered, these realities cannot be ignored.

The bottom line is this: Are the risks and pitfalls associated with PACE liens worth it? That's a question that all homeowners in Kern County must answer for themselves.

*Bill Redmond is president of the Bakersfield Association of Realtors. Visit www.bakersfieldrealtor.org for more information.*

http://bakersfieldnow.com/news/investigations/fight-over-home-improvement-loans-brews-in-bakersfield

# Fight over home improvement loans brews in Bakersfield (see video)

by Matt Boone, Eyewitness News

Thursday, April 27th 2017

BAKERSFIELD, Calif. — In the fall of 2015, Sharon Linley was getting sick of the repeated calls from companies asking her if she would like to purchase solar panels for her home.

"I don't know how many times these solar people will call you, and call you, and call you," said Linley. "And I kept telling them no. No. I don't want it. No!"

But one night, the man on the other end of the phone offered to introduce Linely to his supervisor.

"Boy she was a silver tongue. She could talk you into anything and make it sound like such a wonderful thing," remembered Linley.

Linley agreed to let a representative from the company come to her home. After several visits, Linley and her husband Mark Jarvis still weren't convinced.

But soon enough, they signed the contract.

Admittedly, Linley was intrigued by the prospect of solar energy.

"It's the wave of the future," she would repeat. She said, she had been convinced that the electricity savings would help them save money with their modest social security income.

"I've got a lot of health issues and I figured I would go before Mark and I wanted him to be able to afford to live there," she said.

It wouldn't be until 11 months later when Mark died from cancer when she'd realize she'd been wrong on both of those assumptions.

The installation was financed through a company called HERO Renovate America.

According to the contract, Linley and Jarvis agreed to $19,525 solar panel installment, with $1,259.65 HERO fee and with another payment of $1,853 interest before the first payment.

In total, they were financing a package of $22,638.18 with an APR of 9.42% over 20 years.

But this was not a traditional loan. This was financed through a system called Property Assessed Clean Energy, or PACE.

As the name suggests, PACE financing is paid back through a homeowner's property tax assessment, creating a lien on the home. A lien that, if unpaid, takes a primary position over the mortgage payment in most cases.

PACE liens require few qualifications other than a history of timely mortgage payments and at least 10 percent equity. Most lenders and contractors do not screen for employment history or credit scores.

The County of Kern and the City of Bakersfield both voted to allow PACE lenders to operate in their jurisdictions back in 2014. Since then, more than 3,000 projects have been financed, most of them through HERO.

Despite signing the contract and initialing next to the payment terms, Linley says it wasn't until she received the first bill that she and her husband realized it would be difficult to pay.

Their monthly property tax had gone from $138 per month to $333 per month. In addition to that, Linley said she ended up paying a True-Up bill to PG&E amounting to about $700 over the course of 2016.

"Well, we've got money in savings, we'll try and pay that and then start making payments and see what we can do," Linley remembered thinking.

But in October, Mark died of cancer

"I got a scrambled brain. I wasn't functioning well. I didn't know what to do. I knew I had to hang on to my savings to have something to live on."

Eventually, she made the decision to sell the house, which was not an easy choice to make.

"At 63 years old, it was the first house I had ever owned in my life. I was proud of it," she said.

But now, at 71 with a social security income and a $22,000 lien on her home, she could no longer keep it. She is currently living with her son in Porterville while her home is on the market.

Stories like Linley's are part of a larger problem, argues Sheri Anthes with the Bakersfield Association of Realtors.

"They have targeted those who don't have a voice, and they understand who to talk to and who won't ask the right questions," she said.

By 'they,' she is referring to the contractors who serve as the main salespeople on the ground. She says, they have been presenting PACE financing as a benefit, but claims "what it's turned out to be is a travesty and a predatory practice."

Beyond the concerns over sales tactics, it also begs a bigger question: should local government agencies be used to collect payments for corporate lenders?

Jon Lifquist, the Kern County Assessor-Recorder, says he feels "uncomfortable" with the practice.

"That's my real dispute with the program. You've got a private loan and you essentially have the county stepping in as bill collector for a private loan," he said.

Kern County does not retain any of the money. According to HERO, the county only receives a 20 cent fee for each placed assessment.
Lifquist says his office has not noticed a significant uptick in foreclosures or tax defaults due to the PACE assessments. However, he said they have been getting more calls from confused homeowners who signed PACE loans, but clearly did not understand what they entailed.

"Presumably they were briefed. But on occasion we get calls asking why did my tax bill go up?" he commented.

As a realtor, Anthes argues the practice has thrown a wrench in the local real estate market. Realtors from across the county are coming to her for guidance, saying they have been unable to sell homes with PACE liens.

"Buyers don't want to assume a $30,000 debt for an a/c system that doesn't add value to the home," she said, giving a hypothetical example.

Because PACE liens are tied to the property, they can be transferred when the home is sold.

According to HERO, out of the 80 homes sold with PACE liens, 55 of them were sold after the lien had been paid off. 25 have been transferred from seller to buyer.

For example, Robert Cox, a former oil field worker who was laid off in 2015 was approached by a solar contractor in January of 2016.

Cox said, he was looking for a way to reduce his high electricity bill while he looked for work. While he may not of had a job at the time, he estimates he had about $58,000 of equity in his home.

He was preapproved for a HERO assessment and signed a $54,000 contract for solar panels.

The solar panels did decrease his monthly energy costs, however without an income, he was unable to pay the property tax which had increased more than $6,000 per year because of the HERO lien.

But quickly after putting the home on the market he and his realtor realized they would not be able to sell the home without paying off the lien. In order to do so, Cox says it will all come out of the equity he had built up in the home.

Looking back, Cox described himself as "ripe for the picking." He knew he would eventually have to sell his home, but if he hadn't installed the panels he at least would have walked away with most of his equity after escrow.

Stories like Linley's and Cox's are concerning to local contractors as well, who worry they may tarnish the reputation of the PACE program, leading to stricter regulations.

At a rally last week in front of Bakersfield City Hall, about 50 contractors and construction workers gathered to support the PACE program.

"75 percent of our business now is through the PACE program," said Don Lanier, General Manager of Northwest Exteriors in Bakersfield.

If the PACE financing model was hit with new restrictions, he predicts it would devastate the local construction economy.

"If you take PACE away, you are going to eliminate a lot of jobs, you are going to contribute to unemployment here in Bakersfield and public assistance," he said.

The claims that it's a "predatory" practice have been overblown by the realtors he claims, saying contractors are transparent when offering PACE financing. For him, it's about choice.

"If you choose as an American citizen, you choose a financing system knowing the terms and knowing that the consequences if you don't pay your bills and you get it taken away, absolutely that is personal accountability," he said.

Looking back, Sharon Linley realizes she made the wrong choice saying "I feel like I was made an idiot," adding in her characteristic humor, "I can do that on my own. I don't need their help."

When reached for comment, Matt Bevins, a spokesman for HERO defended their decision to offer Linley the contract.

He wrote to Eyewitness News, "Ms. Linley confirmed the annual payment amount, term, and first payment date with us verbally, over the phone on September 9, 2015. On the same day, she and Mr. Jarvis both signed a 2-page document confirming those details, noting that they understood that the financing was paid back through their property taxes, and acknowledging that they may need to pay off their assessment if they sell their home."

He gave a similar comment for Robert Cox, writing, "Mr. Cox also participated in a live phone call, confirming the terms of his financing and what he would owe on January 7, 2016. He also signed a completion certificate."

Many PACE recipients are pleased with the quality of the work and availability of financing.

Bert Alton, a retired truck driver and disabled veteran used PACE to install energy efficient windows and doors on his Oildale home.

"I didn't have to put any money up at the time. I didn't really have the money," he said, adding, "I'm just really happy with the whole process."

Still, HERO says they are working to put in more consumer protections. This year they began introducing written disclosures modeled after the federal "Know-Before-You-Owe" mortgage form, in compliance with a new state law. They have also begun the HERO Property Advisors division, which works with realtors, homeowners and buyers to make sure PACE liens are properly dealt with during a sale.

The Bakersfield City Council's Budget and Finance committee is also looking at the issue, though they have not announced when or if it will be discussed at an upcoming meeting.

For Sharon Linley, the act of disclosure only goes so far if you are trying to sell a product.

"I think anybody's supposed to make money sure. But they aren't supposed to make money at somebody else's expense to where it makes them lose their homes and way of life and everything. No," she said unequivocally. "That's wrong."

COMMUNITY VOICES – Bakersfield Californian

Trust me, there's nothing heroic about PACE's HERO loan

GLENN PORTER

June 4, 2017
14 ALTERNATIVES TO PACE FINANCING

Not sure PACE financing is right for you in your quest to create energy savings for your home? Consider these financing alternatives:

1. Energy Efficient Mortgage (EEM): This loan program allows borrowers to finance cost-effective energy-saving improvements as part of a single mortgage. These mortgages make it possible for property owners to borrow above the appraised value and stretch debt-to-income qualifying ratios. To ensure the effectiveness of EEMs and to make certain proper upgrades are performed, these loans require an energy audit. EEMs are a Federal Housing Administration product, but the Veterans Administration has its own version.

2. Federal Housing Administration PowerSaver Loans: This loan program offers three financing options for home owners to make energy-efficient and renewable energy upgrades to their homes.

3. PowerSaver Home Energy Upgrade (up to $7,500): This program can be used by homeowners with manageable debt and a credit score of 660 or higher for smaller projects, such as insulation, air and duct sealing, water heating, and upgrading or replacing heating and cooling equipment. Loans of this kind do not require a home appraisal or lien on the property and are insured by FHA.

4. PowerSaver Second Mortgage (up to $25,000): This program is for larger retrofit projects, including energy efficiency, solar photovoltaic, solar hot water, geothermal, or other renewable energy projects. A home appraisal and sufficient equity are generally required, and borrowers will likely not qualify if they already have a second lien or second mortgage on the property.

5. PowerSaver Energy Rehab (203(k) first mortgage up to FHA loan limits): This program is for the purchase or refinance of a home. At least $3,500 of the home improvements must consist of eligible PowerSaver measures. FHA insures the mortgage with the improvement project.

6. HomeStyle Energy Mortgage: This Fannie Mae program allows borrowers to make energy-efficient or utility-cost-reducing upgrades within the mortgage when purchasing or refinancing a home. This

**program also offers $3,500 for certain types of weatherization and water-saving improvements. Note: Fannie Mae allows those with a PACE loan to finance with this program.**

**7. HomeStyle Renovation Mortgage: This Fannie Mae program allows borrowers to make renovations, repairs and improvements totaling up to 50 percent of the as-completed appraised value of the property with a first mortgage.**

**8. Freddie Mac Renovation Mortgage: This program allows borrowers to repair, restore and rehabilitate, or renovate their existing site-built homes within a Freddie Mac mortgage.**

**9. The Southern California Gas Company Home Energy Upgrade Financing Program: This program offers loans ranging from $2,500 to $20,000 for the purchase and installation of energy-efficient upgrades. Eligible technologies include water heaters, refrigerated air conditioners, evaporative coolers, double-pane windows, building and equipment insulation, roofing, spa/ pool heaters, insulated plantation shutters, and permanently installed natural gas barbecues.**

**10. The California Housing Partnership Corporation Ratepayer Integrated On-Bill Payment Program is tailored to low-income multifamily rental properties and allows retrofit costs to be included in a tenant's energy bill.**

**11. Home equity lines of credit**

**12. Traditional financing**

**13. Credit card financing**

**14. Cash**

**— Glenn Porter**

**Kern County supervisors and Bakersfield City Council members are considering the future of Property Assessed Clean Energy financing. Options in the PACE program include Ygrene and HERO loans, which are ostensibly used to make "energy saving" upgrades to homes.**

These programs allow people who generally can't qualify for traditional financing options to install solar panels, replace windows, add new roofing and even repaint their homes under the guise of saving energy.

On the surface, the program seems like something good for the environment, something that can save the consumer a lot of money. Unfortunately it has a few onerous twists that most people have failed to factor in.

I'd like to put some numbers to a typical PACE project with "energy saving" upgrades that are on the low end of the scale: solar. I spoke with many solar companies and was given an estimate to put solar on my home; the total cost of the system on average was $26,000, but with the tax break (most people don't qualify to use the tax break) of $6,000 my effective cost was $20,000.

Using PACE financing and interest computed at 10 percent, my payments would only be $193 per month — not bad. Then I learned about the "add-on interest," which changes the effective interest rate on my loan. This fully amortized interest is immediately applied to the amount of your project. In my case that changed the $20,000 "energy saving" upgrade to a $46,000 upgrade and increased my monthly tax bill by $440. Including my "normal taxes," I would now owe $690 in taxes every month for 20 years.

It hit me like a semi-truck. If people cannot qualify for a traditional purchase (cash, home equity loan) because of their financial situation, how are they going to pay the $690 monthly tax bill?

Another little detail you probably need to understand: Because these programs are paid through your property tax bill, a failure to pay will result in your home being foreclosed — and you cannot transfer the "energy savings" to another property. You either pay off the additional tax in full upon sale or try to talk the buyer into assuming the added tax burden for items they are already paying for by the appraised value.

Good luck, because unless you have a lot of cash laying around (using this program would suggest that you do not), your "energy saving" solar system will affect both the value and ease of selling your home.

It is the reason investors and some mortgage companies are coming up with ideas to put your equity into their hands; their mantra is, "Have we got a deal for you."

With these programs, not only is the public being misled, our local solar companies are being misled, and the hard-working installers are being misled. The problem isn't local people, the problem is PACE financing.

I am a former Marine and I volunteer with several military support groups which allow me to work with "real heroes." Nothing is heroic when it comes to these programs; they simply strip away homeowner equity.

I plead with those of you who fell into this pit: Send a letter to your supervisor and copy me; we will help give you a voice.

***Glenn Porter is the broker/owner of Re/Max Golden Empire and has been in the industry for more than 35 years. He is also an active member of the Bakersfield Association of Realtors and a Re/Max Hall of Fame Broker. Contact him at*** glenneporter@gmail.com **.**

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Bakersfield Californian
Letters to Editor

June 4, 2017

UNINTENDED CONSEQUENCES OF PACE

Will taxpayers see more synthetic tax-like structures for whatever the state and lobbyists want? We cannot continue to ignore this issue of Property Assessed Clean Energy financing. KernTax believes that efforts to mitigate the problems created by the well-meaning PACE program yield some improvement, but potential price gouging, gold plating, taxations issues, and foreclosure issues would not exist if the PACE program did not create them.

This synthetic financing instrument, created as public policy without consideration to normal home buying and mortgage lending practices such as the adherence to the Truth in Lending Act, allows a person who otherwise could not and arguably should not borrow to buy "energy and water saving" improvements to obligate themselves and future purchasers to a non-market payment structure that may have been priced far above reasonable market prices had the installation been subject to a review for home improvement.

Overpriced home improvements will lower resell values and lead to more foreclosures. There is a foreseeable de-gentrification of neighborhoods as homes go on the market and remain unsellable due to the PACE burden. The County of Kern and City of Bakersfield would be wise to reconsider this policy.

We must ask: Why is our local government in the business of promoting and collecting property tax dollars for private enterprise through property tax assessments? Is this really the best role of local government?

*— KernTax Executive Director*

*Michael Turnipseed, Bakersfield*

SHARE

# Private lenders use PACE program to trap homeowner

By Anna Caballero
and Jenine Windeshausen

California leads the nation in energy innovation and leadership. The Property Assessed Clean Energy (PACE) program is an example of that innovation.

PACE was first implemented in 2007 as a tool to achieve climate goals. It helps homeowners to finance energy efficiency and renewable energy generation upgrades, such as solar systems, by attaching the debt to the property rather than the borrower. The debt is an assessment repaid through installments added to the property tax bill.

It is an effective tool. However, private party PACE lenders are not regulated by state or federal agencies, and lack of regulation and transparency has created an environment ripe for consumer risk.

Because PACE assessments are repaid on the borrower's property tax bill, delinquency can result in a home being lost to tax sale – with county tax collectors put in the position of collecting revenues for private, for-profit PACE lenders.

Private party lenders entered the lucrative energy upgrade financing market knowing they could benefit from a very powerful collection instrument – a priority lien on the county tax bill.

Defaulted taxes, including PACE assessments, accrue penalties at the statutory rate of 18 percent per year. With PACE financing costs of 6 to 9.5 percent, the total return on investment to private party PACE lenders is upwards of 24 percent, and property owners risk losing their home when they cannot pay the mounting property tax bill.

There is no formal oversight of for-profit private party PACE lenders to ensure they provide homeowners with the same disclosures and borrower information that is required for other types of loans. And because underwriting is not as stringent, consumers are exposed to risks they may not fully understand.

In too many cases, homeowners learn how PACE liens are paid when they receive a property tax bill and see their bill double or triple.

Making matters worse, if a property owner fails to pay a property tax assessment, he or she can become current only by paying the full amount due because the tax collector cannot accept partial payment as the money goes to cities, counties, special districts and school districts.

Tax bill delinquencies are on the rise in some counties where private party PACE programs have been in effect longer, and where homeowners can't keep up with the unanticipated rate of debt.

To make the program more transparent, and to ensure its long term viability and its energy saving benefits, AB 271 was introduced. This consumer protection measure removes the incentives for private-party PACE lenders to profit from the penalty provision of the property tax collection system.

This will solve the problem by authorizing the County Treasurers and Tax Collectors to remove tax defaulted PACE assessment from the property tax roll.

Tax collectors are servants of the taxpayers and should not be in the position of collecting payments for private party lenders. The changes proposed by AB 271 will protect taxpayers and those who rely on the local governme services by leaving the collecti to PACE lenders.

We believe that PACE is : important tool to help Califo nia fight climate change and meet energy goals. It helps homeowners to improve the value and efficiency of their homes. Let's ensure that the benefits are accompanied by transparency and necessary consumer protections by pa: ing AB 271.

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*Anna Caballero represents California's 30th Assembly District, which includes souther Santa Clara County, and is the former head of the California Department of Consumer Affair Jenine Windeshausen is the Pla County Treasurer-Tax Collecto and the administrator of its cou operated PACE program. They wrote this for The Mercury New*

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HERO Program problems in California

http://www.pe.com/articles/program-768927-hero-ramirez.html

# Riverside County DA investigating how contractors pitch HERO program

**BY DEBRA GRUSZECKI** / STAFF WRITER

*Published: June 3, 2015 Updated: June 12, 2015 4:43 p.m.*

Riverside County Deputy District Attorney Raymond Ramirez on Wednesday revealed an investigation is underway over the way consumers are being sold energy-efficient products through the HERO program.

Ramirez confirmed the probe during a forum hosted by the Inland Valleys Association of Realtors.

Ramirez, a member of the Riverside County District Attorney's Office's real estate fraud unit since 2006, said the district attorney has received complaints, and he will be looking into the way the HERO program has been pitched to consumers by contractors.

"I do have a reputation for going down rabbit holes," Ramirez said in a crowded IVAR meeting room. "This may be one of those times."

He said he wants to determine if consumers are being truly informed about what they're getting into.

The Home Energy Renovation Opportunity, or HERO, program was launched by the Western Riverside Council of Governments, or WRCOG. It allows a homeowner to install "green" improvements at low out-of-pocket costs, but with a payment program attached to a homeowner's property tax bill.

The HERO loan can be a blessing to homeowners because so little is required at the point of installation. The products can lower utility payments and increase the value of the home.

But the loan takes a first-lien position, meaning it has to be paid first if the property is sold or refinanced. That first position is such a sticking point, the Federal Housing

Finance Agency prohibits Fannie Mae and Freddie Mac from buying mortgages or notes with these types of liens.

It's complicated home sale and refinancing deals, particularly when lenders refuse to accept a secondary position and require the HERO assessment to be paid off. Property owners have told Realtors that they were led to believe the loan stayed with the house when it was sold or refinanced.

Officials with Renovate America, the San Diego company retained by WRCOG to manage the HERO program, told the audience of about 150 people that the homeowner is asked to sign paperwork that discloses clearly that the loan may have to be paid in the first-lien position.

How clearly the first-lien requirement is laid out in documents is at the heart of the issue.

Warren Diven, an attorney for WRCOG who volunteered to be part of the forum, gave a review on law that makes the HERO program legal. And while he confirmed the ban, he said the FHFA has no direct regulatory authority over state or local government. This program is legal under federal law, he said.

Diven urged Realtors to join WRCOG in an effort to convince the FHFA to lift its ban.

A Realtor in the audience said he supports any action to create full disclosure for property owners. That disclosure needs to be set in large, 40-point type, he told Diven. "There seems to be a disconnect to the end result," Ruben Hernandez, of EGA Homes, said.

Renovate America officials said contractors who are authorized by HERO to sell the products do get rigorous training, and must be registered. They have to be bonded and insured.

The Pasadena Star-News (http://www.pasadenastarnews.com)

# Watch out for these green-energy improvement loans that put homeowners at financial risk

## PACE super-priority liens must be paid off in full before house can be sold or refinanced

*By Kevin Smith, San Gabriel Valley Tribune*

Thursday, June 2, 2016

A loan program that helps California homeowners pay for energy-efficient upgrades is also putting them at financial risk, experts say.

PACE (Property Assessed Clean Energy) loans typically range from around $5,000 to $40,000 and are used by homeowners to finance things like solar panels, new heating and air conditioning equipment or energy-efficient windows. The program allows local and state governments to fund the upfront cost of improvements to commercial and residential properties while being paid back over time.

But some credit union executives say each loan comes with a problem — a "super-priority lien" that's placed on it. These liens mean PACE lenders are given "first position" status on the homeowner's mortgage, so if the homeowner later wants to refinance the mortgage, seek a loan modification or sell the home he or she will be forced to pay off the entire PACE loan first.

"PACE loans look and act like loans, but they are really a tax lien on your property tax bill," said Kevin Pendergraft, CEO of Pacific Community Credit Union, which has branches in La Habra and Irvine. "If a consumer runs into financial problems, they will never be able to avail themselves of bankruptcy protection from this obligation. This is not stated upfront by the people who are selling these loans."

PACE financing is typically offered by local contractors through door-to-door sales, whether it's a solar panel provider, a window installer or another provider of energy-efficient upgrades. A PACE loan — whether financed over 10 or 20 years — is paid by the homeowner through an assessment that appears on his or her semiannual property tax bill.

On a broader scale, the PACE lending program could negatively impact California's housing market since Fannie Mae and Freddie Mac — two major government-sponsored staples of the housing market— are currently not allowed by their federal regulator to purchase mortgages from financial institutions, such as credit unions, on properties encumbered by liens.

Fannie and Freddie are traditionally in "first position" when they fund mortgages.

Credit unions fear they will have limited options to help their members who have the liens attached to their properties if California is hit with another housing market downturn in the future.

"We're starting to see problems with our credit members," said Courtney Jensen, a legislative advocate with the California Credit Union League. "Super lien status isn't explained correctly to them, or else they simply don't understand the consequences involved."

Jensen noted that California is currently the biggest marketplace for PACE loans. The PACE website says that 82,000 U.S. homes have been upgraded through the PACE lending program so far. More than 56,000 of them are in California, according to the California State Treasurer's office.

Assemblyman Matt Dababneh, D-Encino, authored Assembly Bill 2693 to address issues associated with PACE financing. The measure passed the Assembly floor on May 23 by a vote of 75-0 and is now headed to the Senate for consideration.

AB 2693 requires that a homeowner must be provided a financing estimate and disclosure document before entering into a PACE loan. The disclosure document will notify homeowners that they may not be able to sell or refinance their home unless the PACE loan is paid off in its entirety, as well as annual percentage rates, product costs, closing costs and fees.

"While California's PACE program was drafted with the best intentions, like any new program, implementation has not been perfect," Dababneh said in a statement. "Currently, there is no requirement for basic disclosures and homeowners are often misled to believe that the PACE program is a subsidized government program that carries no risk if they need to sell or refinance their home."

Dababneh said his legislation should shed needed light on the issue.

"The prospect of going green, coupled with a misleading sales pitch by contractors, is leading homeowners — many of them seniors — to getting scammed and becoming victims of predatory lending because they have no idea what financial product they are really buying," he said.

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**URL: http://www.pasadenastarnews.com/business/20160602/watch-out-for-these-green-energy-improvement-loans-that-put-homeowners-at-financial-risk**

ORANGE COUNTY
REGISTER

# Energy loans lower utility bills – but at a price

JEFF LAZERSON
2016-07-21 12:44:45

This week, the White House made a bombshell announcement. The controversial PACE, or property assessed clean energy super lien, is getting the green light to finance energy efficiency home improvements on Federal Housing Administration (FHA) and Veteran's Administration (VA) loans but not conventional Fannie Mae and Freddie Mac loans.

Earlier this year, I wrote that PACE funds up to 15 percent of your property value, not to exceed 100 percent of your property value when combined with all mortgage liens.

You pay it as part of your property tax bill, similar to how Mello-Roos or other special assessments are paid.

PACE interest rates go from 6 to 9 percent, typically amortizing over 15 or 20 years. And, you will get hit with a loan origination fee of about 5 percent of the renovation loan amount.

When it comes to delinquencies and foreclosures, this lien becomes superior to FHA and VA loans and runs with the property. New owners are responsible for the remainder of the PACE assessment should the home be sold or title assigned.

What's terrific about PACE is you have a financing instrument needing little equity to greatly improve energy efficiencies, knocking down your utility bills in the process.

What's terrible about PACE is it's the safest and maybe highest yielding of money grabs for Wall Street type investors. That's always at the home owners' expense. No matter who, no matter what, that lien is getting paid just like property taxes.

Many more California homeowners will be exploited because there is no mortgage cop on the corner empowered to police any company or anyone selling you a PACE lien.

I give Fannie and Freddie credit for offering first trust deed renovation type financing that competes with PACE but is much safer.

Approvals are easier when taking out a PACE loan after your FHA or VA mortgage is completed. But you undergo more scrutiny when PACE liens already exist or are taken out at the same time as a new FHA and VA loan.

Wasn't the housing collapse and Great Recession largely caused by jacked up interest rates and fees and no-equity loans? And, here we are (so soon) again!

Another slippery slope is when you go to sell or refinance a property with a PACE lien. If the new buyer is using Fan or Fred financing, or if you are trying to get away from the FHA mortgage insurance by way of conventional refinancing, then no dice, baby.

PACE would have to be completely paid off.

Take out a PACE lien if you must. If you can, pace yourself and wait a few years. Payday lenders and subprime auto finance folks will jump in and you'll see rates and fees fall.

Federal legislation will eventually happen, empowering the Consumer Financial Protection Bureau or some other agency to police what is now the wild West of PACE pricing and qualifying.

*Mortgage broker Jeff Lazerson can be reached at 949-334-2424 or jlazerson@mortgagegrader.com or on Twitter: @mortgagegrader_.*

THE WALL STREET JOURNAL.


http://www.wsj.com/articles/americas-fastest-growing-loan-category-has-eerie-echoes-of-subprime-crisis-1484060984

MARKETS

# America's Fastest-Growing Loan Category Has Eerie Echoes of Subprime Crisis

Lenders offering energy-conscious loans care little about borrowers' creditworthiness, contractors function as loan brokers—and investors can't get enough

Cindi Ventura helps her mother out of the San Jose, Calif., house where they live. They got a PACE loan for $16,732 after eroded sewer pipes caused a flood. *PHOTO: PRESTON GANNAWAY FOR THE WALL STREET JOURNAL*

By **KIRSTEN GRIND**
Updated Jan. 10, 2017 2:41 p.m. ET

Deanna White told a contractor she couldn't afford the $42,200 loan he recommended for improvements to her house in Inglewood, Calif. The contractor, she recalled, said she wouldn't be on the hook because the loan was part of a "government program." She applied and was approved.

Two years later, Ms. White is struggling to make payments on the loan, which was packaged with more than 10,000 similar loans into bonds and sold to investors. Under its terms, Ms. White's five-bedroom house could be foreclosed on if she defaults.

Her loan is part of a booming corner of the lending industry called Property Assessed Clean Energy, or PACE. Such loans, set up by local governments across the U.S., are designed to encourage homeowners to buy energy-efficient solar panels, window insulation and air-conditioning units.



About $3.4 billion has been lent so far for residential projects, and industry executives predict the total will double within the next year. That would likely rank PACE loans as the fastest-growing type of financing in the U.S.

As the loans spread, so do problems that echo the subprime mortgage crisis. Plumbers and repairmen essentially function as loan brokers but have scant training and oversight. They often pitch PACE loans to help land contracting jobs and earn referral fees from lenders, according to loan documents and more than two dozen borrowers, industry executives and employees.

Creditworthiness matters little to lenders, because loans are based on the value of a homeowner's property. PACE loans typically require no down payment, and the debt is added to property-tax bills as an assessment. Ms. White's annual property taxes soared to $6,500 from $1,215.

Loan growth is fueled partly by investor appetite for bonds created from PACE loans, especially among mutual funds and insurers. Investors like the bonds' relatively high payouts, environmentally friendly reputation and lofty credit ratings. On the other hand, rating firms have said there aren't enough historical data on PACE loans to forecast potential defaults.

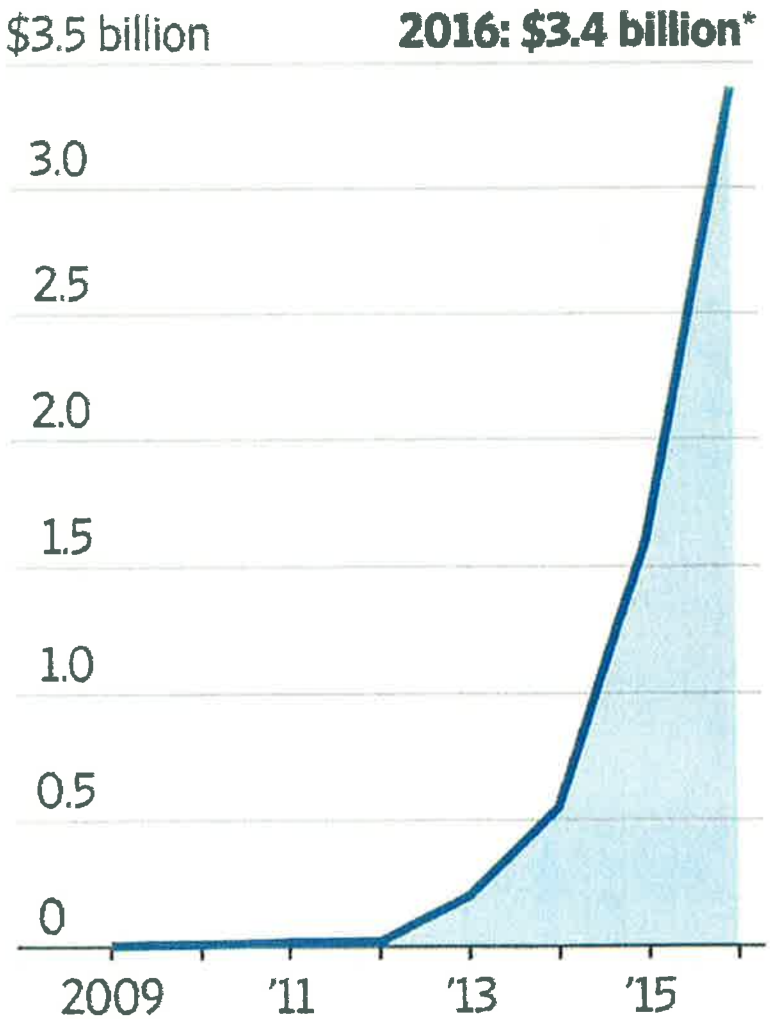
Some local governments that embraced the loans as a way to bring clean energy to the masses didn't anticipate the messy consequences.

"We wanted to put ourselves in the thick of this," says Rick Bishop, executive director of the Western Riverside Council of Governments, a group of city and county governments in California that helps run the largest PACE program.

"The downside is now we hear about these stories from people who feel like they've been misinformed in some fashion."

## Home Improvement

Cumulative PACE financing for residential projects




*Through Dec. 20 Source: PACENation

THE WALL STREET JOURNAL.

The government group tries to resolve problems for borrowers. Riverside County, Calif., has opened an investigation into marketing practices for PACE loans, and California Gov. Jerry Brown signed into law in September new requirements establishing uniform disclosures for PACE loans, an effort to make lending terms closer to those for mortgages. Homeowners who get a PACE loan now have three days to back out.

The largest PACE lender, Renovate America Inc., is accused in three lawsuits filed in November by borrowers of double-charging interest and administrative fees and failing to immediately credit loan payments. The suits seek class-action status. The company denies the allegations and says it will "defend PACE, our company and the program vigorously."

In November, the Energy Department urged administrators of the loan programs to clearly explain loan costs and other terms, allow borrowers to cancel their loan during a short period and deter kickbacks to contractors.

Industry executives say most borrowers are satisfied with their loans and defaults are rare.

Lenders are working with consumer groups to create nationwide standards "to prevent things that wouldn't benefit consumers," says JP McNeill, Renovate America's founder and chief executive.

The growing pains are largely the result of the industry's young age, the executives say. The first PACE program was started in 2007 by Cisco DeVries, then chief of staff to the mayor of Berkeley, Calif.


Cisco DeVries, center, at the Cities for Tomorrow conference in New York in July 2015, calls himself a 'capitalist hippie' and is chief executive of clean-energy company Renew Financial Group. *PHOTO: LARRY BUSACCA/GETTY IMAGES*

Thirty-four states and Washington, D.C., have passed legislation allowing the creation of PACE programs, according to PACENation, an industry trade group in Pleasantville, N.Y.

Mr. DeVries, who calls himself a "capitalist hippie" and now is chief executive of Renew Financial Group LLC, a clean-energy finance company in Oakland, Calif., says he is "really proud of what we've accomplished." He adds: "We set out to help people save money and save energy, and it's under way."

The industry could get a new growth spurt from a July decision by the Department of Housing and Urban Development to allow the Federal Housing Administration to purchase mortgages on homes with PACE loans.

PACE loans range in size from about $5,000 to more than $100,000, with an average of about $25,000, and charge interest rates of 6% to 9% over a repayment period of usually five to 25 years.

Instead of making monthly mortgage payments, PACE borrowers pay what they owe once or twice a year along with their property taxes. Cities and counties collect the loan payments and pass along the money to lenders.

Local governments collect fees from finance companies. In the fiscal year that ended June 30, the Western Riverside Council of Governments collected revenue of $7.1 million, or about 15% of its budget, from the PACE program.

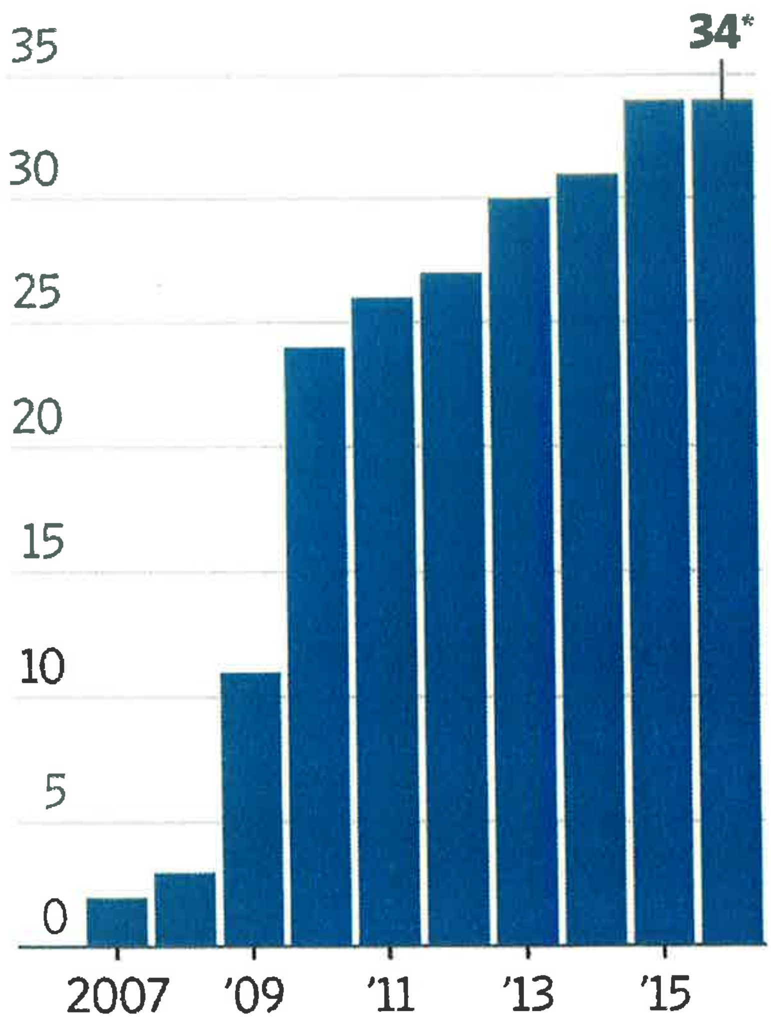
Another quirk of PACE loans is that the debt usually goes to the front of the line, ahead of the homeowner's mortgage. Like a typical tax assessment, that means if a homeowner defaults on the PACE loan, the property can be seized as collateral and sold to repay the lender.

That setup puts local governments in the awkward position of potentially foreclosing on their constituents. If that happens and the house turns out to be worth less than the amount owed by the homeowner, other taxpayers could be stuck with a loss on the difference. So far, that hasn't happened.

Some investors say the extensive involvement in PACE loans by governments across the country amounts to an implicit financial backstop. The belief that governments stand behind the loans is a major reason why investors are attracted to the bond deals, according to investors.

## Across the U.S.

Number of states with PACE legislation




*As of Dec. 20 Source: PACENation

THE WALL STREET JOURNAL.

"There is such big national and state backing," says Mike Warmuth, portfolio management vice president at FBL Financial Group Inc., the owner of Farm Bureau Life Insurance Co. in West Des Moines, Iowa. The insurer owned $22 million of PACE bonds at the end of September.

Mr. Warmuth says the insurer's broker suggested the bonds, which generally yield about 4%. He says he isn't aware of any underwriting deficiencies with the loans, adding that Farm Bureau only had access to aggregate loan data before buying the bonds.

Defaults on loans in PACE bond deals overall have been less than 1%, according to Kroll Bond Rating Agency Inc. Cecil Smart, a senior director at the ratings firm, says the bond deals are structured so that lenders bear the brunt of any losses, rather than investors.

Germany's Deutsche Bank AG is one of the largest packagers of PACE loans into securities and led a $284 million deal in mid-December, which drew far more investor demand than expected. The bank is aware of problems stemming from the role of contractors, says a person familiar with the matter.

Contractors often line up loans while on house calls and can earn a referral fee of at least $500 per borrower, according to current and former employees. The loans also are marketed at county fairs and by cold calling, borrowers say.

Renovate America uses about 8,000 contractors to help line up loans, according to bond documents. Those contractors are overseen by 23 employees at the San Diego company.

The company says it recently put in place a more-stringent contractor management program. Renovate America says only about 200 contractors are actively arranging PACE loans.

Cindi Ventura, 65 years old, says she was urged last summer by her plumber to apply for a PACE loan after sewer pipes eroded underneath her three-bedroom house in San Jose, flooding the property. She said she had recently filed for personal bankruptcy, didn't have the money to make all the repairs and couldn't qualify for a home-equity line of credit.

She and her mother, 83, received a $16,732 loan for five years from Ygrene Energy Fund Inc. with a 6.5% interest rate. Ygrene ("energy" spelled backward), based in Santa Rosa, Calif., is the second-largest provider of PACE financing in the country, based on loan volume.

Ms. Ventura, a receptionist, says she was confused about the loan's terms because it was called an assessment. She says she called and emailed Ygrene several times with questions about her loan documents and never heard back. "I still don't really understand what the program is," she says.

Louis Lalonde, chief marketing officer of Ygrene, says company representatives had a call with Ms. Ventura and her mother to answer all their questions before the loan was signed. He says he has no record of any further attempts to contact them.

The 3,200 contractors who drum up business for Ygrene are regularly screened for compliance with contractor licensing requirements and receive training before they are allowed to pitch loans to homeowners, he adds.

Cindi Ventura helps her mother sort old family photographs. She says she was confused about terms of their PACE loan because it was called an assessment. *PHOTO: PRESTON GANNAWAY FOR THE WALL STREET JOURNAL*

Malcolm Scott, 61, was planning to pay in cash the $34,000 it would cost for a new air-conditioning unit, furnace and other improvements at his house in Woodland Hills, Calif. His contractor suggested applying for a PACE loan.

Mr. Scott was surprised to find out less than 24 hours later that he had been approved for $94,000. Renovate America says he qualified for the larger loan based on the amount of equity in his house. He decided to borrow just the $34,000.

Michael Gardner, who runs Mediterranean Heating & Air Conditioning, which lined up the loan, says he has been recommending loans for about two years and got "an hour or two" of online training from Renovate America.

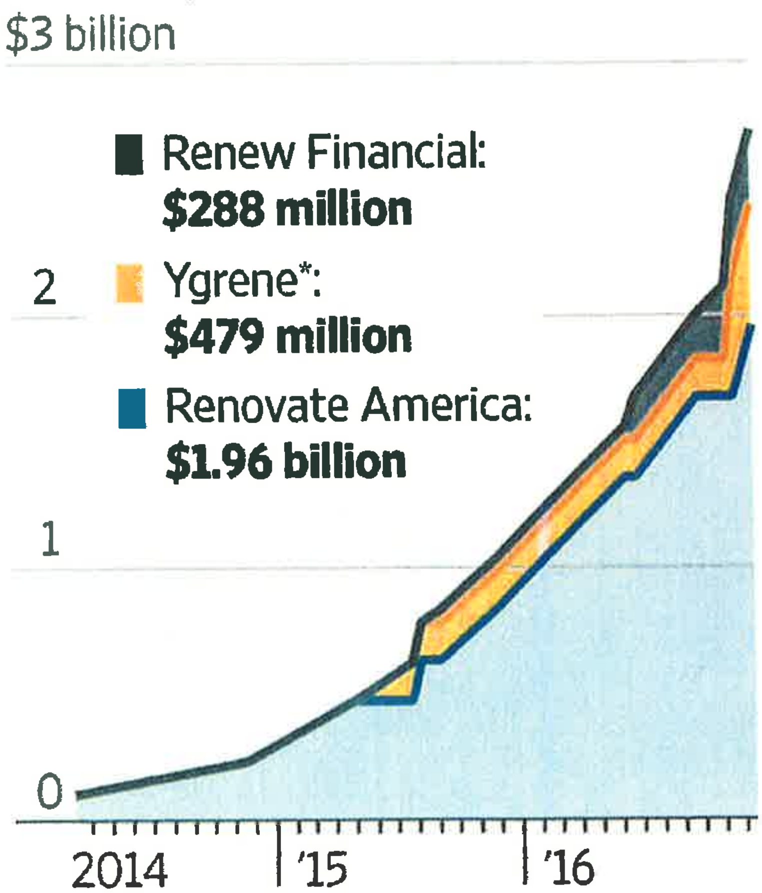
The program "is real nice because there are no FICO score requirements or anything like that," says Mr. Gardner.

Some lenders have taken steps to strengthen underwriting practices, make loan documents more transparent and boost contractor oversight. Renovate America

## Hungry Investors

The growth of PACE loans has been fueled partly by investor appetite for bonds created from the loans.

**Cumulative securitization of residential PACE loans*** by dollars funded




Note: Through Dec. 15
*Ygrene includes some commercial loans.
Source: PACENation
THE WALL STREET JOURNAL.

now requires in-house representatives to speak with a borrower by phone—outside of the room and away from the contractor—before signing a homeowner up for a PACE loan.

Renovate America, which is backed by nine private-equity and venture-capital firms, says it has spent the last several months working with consumer groups and regulators to come up with national lending standards for PACE. The new standards could include a year with no payments for borrowers who are suffering from an economic hardship.

"At the end of the day, PACE is an unregulated industry, and it's just a matter of time before we get regulated," says Mr. Lalonde of Ygrene.

Phil Adleson, a lawyer in San Jose, Calif., who represents borrowers, says PACE is "a very great idea implemented in a dangerous fashion."

Ms. White, the borrower in Inglewood, a neighborhood in Los Angeles County, says a contractor from a company named the House Next Door told her in late 2014 not to worry that she couldn't afford the $42,200 loan because "it wouldn't be coming out of my pocket."

The company says no one there would ever describe PACE loans like that and says Renovate America has held weekly training sessions for its contractors for "more than a year."

Ms. White says the contractor finished the drought-resistant landscaping at her house only after being contacted by a Journal reporter. Renovate America says the contractor has been "under suspension" for the past several weeks.

Her loan went into a pool of 11,282 PACE loans that are collateral on bonds issued by the Western Riverside Council of Governments. Deutsche Bank packaged the bonds into a $240 million deal called "HERO Funding Trust 2015-1." Kroll gave it a AA rating, the firm's third-highest.

According to the latest available figures, fewer than 70 of the underlying PACE loans have defaulted, and Kroll said the transaction "has performed as projected."

Ms. White's next loan payment is due in April. She says she doesn't know how she will be able to pay it.

**Write to** Kirsten Grind at kirsten.grind@wsj.com

https://www.wsj.com/articles/renovate-america-one-of-americas-fastest-growing-lenders-didnt-disclose-it-made-payments-to-some-borrowers-1488969001

MARKETS

# Renovate America, One of America's Fastest-Growing Lenders, Didn't Disclose It Made Payments to Some Borrowers

The company's corporate culture favored loan production over homeowner protection, former compliance employees say

Ron Wallis, a former compliance employee at Renovate America, was one of several employees who say they complained to executives about a sales-focused culture at the San Diego company. *PHOTO: RON WALLIS*

By **KIRSTEN GRIND**

ch 8, 2017 5:30 a.m. ET

Renovate America Inc. is the biggest player in America's fastest-growing type of loan. The San Diego-based company enjoys the backing of municipalities and big-name Wall Street investors, thanks in part to its record of ultralow customer defaults.

But Renovate America, which finances purchases of solar panels and energy-efficient appliances, has masked problems with some borrowers by paying off their debts if they struggle to keep up with payments, according to former Renovate America employees.

Renovate America hasn't disclosed that fact to investors who buy bonds backed by the company's loans, say three former employees in the company's compliance department.



The company's investors include mutual funds run by J.P. Morgan Chase & Co. and DoubleLine Capital LP, which have been told customer default rates are less than 1%, according to fund documents and credit-rating firms. A J.P. Morgan spokeswoman declined to comment, and a DoubleLine spokesman didn't respond to a request for comment.

cNeill, Renovate America's chief executive, said the company made a small number ayments between 2014 and 2016 on behalf of 83 borrowers. He said the payments weren't disclosed to investors because the number of recipients was a fraction of a

## Lending Boom

A snapshot of Renovate America's fast-growing business in its largest local-government partnership, located in Southern California.

| Tax year | Number of properties in program | Value of loans in program | Number of delinquent properties | Value of delinquent loans | Delinquency rate |
|---|---|---|---|---|---|
| 2012-13 | 110 | $242,572 | 0 | 0 | 0 |
| 2013-14 | 3,178 | $6.8 million | 8 | $12,748 | 0.26% |
| 2014-15 | 9,125 | $22 million | 44 | $97,688 | 1.52% |
| 2015-16 | 21,811 | $65 million | 110 | $282,712 | 0.43% |

Source: Western Riverside Council of Governments THE WALL STREET JOURNAL.

percent of the 90,000 homeowners who got loans from Renovate America and wasn't considered "material."

Executives at two asset managers that bought Renovate America's bonds said their firms would have liked to know about the payments before investing. The payments make it harder for investors to gauge the true default rates of the loans.

Securities laws require companies to disclose all information that investors would consider to be material, said Erik Gerding, a professor at the University of Colorado law school. In Renovate America's case, "the conservative approach would have been to disclose," he said.

Renovate America makes its loans through state-run programs known as Property Assessed Clean Energy, or PACE. The high-interest-rate loans are brokered by plumbers and contractors, financed by private lending companies, backed by county governments and purchased by investors.

Loans, averaging about $25,000, are placed on a homeowner's tax bill as an assessment that needs to be paid along with property taxes. In a default, the loans are given priority over a homeowner's mortgage.

PACE lenders have made about $3.4 billion in loans since 2008. Industry participants expect more than $2 billion in loans to be made this year as more states sign on.

l Street's appetite for PACE bond deals is fueling growth. Investors are attracted to the bonds' roughly 4% return despite maturities that can stretch more than two decades. A key selling point is the perceived safety of the loans backing the bonds, even though credit-rating firms say there is little historical default data.

The Wall Street Journal reported in January that some borrowers in the PACE program said they were misled about their loan terms and can't afford their debt. Renovate America and other PACE lenders told the Journal they are putting more rules in place to protect homeowners.

PACE lenders rely on partnerships with state and local governments. The municipalities, eager to offer clean-energy savings to their constituents, are responsible for collecting homeowners' tax payments.

Renovate America was co-founded in 2008 by Mr. McNeill. It is backed by venture-capital firm DFJ Growth and private-equity firm Silver Lake Kraftwerk, among others. Renovate America has raised about $175 million in three financing rounds. The most recent, in 2015, valued it at about $500 million. The company's lenders, including Bank of America Corp. and Credit Suisse Group AG, are helping finance a nationwide expansion.

A spokeswoman for DFJ didn't return a request for comment, and a spokesman for Silver Lake Kraftwerk declined to comment. Bank of America and Credit Suisse representatives declined to comment.

Last year, Renovate America originated about $1 billion in loans, up 35% from 2015, the company said. It uses about 8,000 contractors to source loans across the country.

ate 2014, as some borrowers started missing payments, Renovate America launched a program dubbed "first payment assistance," according to the former compliance employees. The program paid a homeowner's first tax assessment or even a full year of debt, the former employees said.

**Dissatisfied Customers**

< >

1 of 3

Lenders in the Property ssessed Clean Energy gram, or PACE, make high-interest-rate loans on solar panels and energy-efficient appliances. Some borrowers say they were misled about the terms of the loans, which are placed as a tax assessment on the homeowner's property bill. Others say work done by contractors used by lenders to broker loans was subpar.

DANA LEONARD

**Solar Panels**
$54,000

Robert Cox, 59 years old, says he was sold $54,000 of solar panels by salespeople with Renovate America on a house in Bakersfield, Calif., that was badly in need of other pairs. He says he didn't realize his loan as a tax assessment until a few weeks ago when his real-estate agent told him. Mr. Cox, who works in the oil industry, is now trying to sell the house in a short sale because his mortgage is more than the house is worth. "I thought I was going to save a lot on my energy bill," says Mr. Cox, who says he has realized no energy savings. A Renovate America spokeswoman says Mr. Cox confirmed the terms of his loan with the company in January 2016, including an annual payment of $6,327, and signed a document saying the project was done to his satisfaction.

The ad hoc program lacked formal guidelines. Borrowers were more likely to receive aid if they threatened to go to the media with their complaints, one former employee said.

A Renovate America spokeswoman said that payments weren't made in a "programmatic or formal way" and that homeowners who received payments had misunderstood their loan terms or hadn't saved enough to pay off their tax assessments.

Mr. McNeill, the CEO, said the payments made on behalf of the 83 homeowners totaled $175,000 between 2014 and 2016.

The former compliance employees said they believe the sum is higher. One who worked with people responsible for the payments estimates the company paid out about $1 million to homeowners in a seven-month period beginning in fall 2015. The Renovate America spokeswoman disputed that number.

Renovate America stopped the payments late last year at the suggestion of its capital-markets division, which manages the company's bond deals, the spokeswoman said.

The former compliance employees said Renovate America made the payments to deal with problems stemming from a corporate culture that favored loan production over homeowner protection.

. McNeill said the company's culture is focused on helping homeowners.

"We need to close as many projects as possible because that makes the investors happy," a former compliance officer said she was told by Mike Anderson, the firm's senior director of compliance operations. Mr. Anderson said through a spokeswoman that he doesn't recall the conversation.

Renovate America encouraged sales staff to tell borrowers that the loans would generate rebates that would essentially cancel out the loans' costs, according to former executives and homeowners. Some homeowners said the savings didn't materialize.

Mr. McNeill said that tax benefits are a relevant data point for homeowners, who "are happier if they're informed of benefits that exist."

Contractors who receive customer complaints about the quality of their work typically weren't penalized if they brought in a high volume of business, former employees said.

"We're not here to put contractors out of business," Renovate America's chief legal officer, Scott McKinlay, told a group of employees last fall, according to an attendee.

Mr. McKinlay said in an interview that his comments were meant to encourage employees to "find ways to improve ourselves."

Ron Wallis, a former compliance manager, said he told Mr. McNeill about what he described as predatory lending to senior citizens who didn't understand loan terms. Roughly 25% of Renovate America's loans go to elderly borrowers, former employees said. The Renovate America spokeswoman confirmed the figure, saying the percentage is less than the percentage of homeowners who are 65 and older in California, the company's largest market.

Mr. Wallis—who said he was fired in September for unauthorized vacation use—said Renovate never took action in response to his claims.

Mr. McNeill said that elderly borrowers go through additional vetting before receiving loans. "We absolutely, unequivocally do not advocate targeting any protected class," he said.

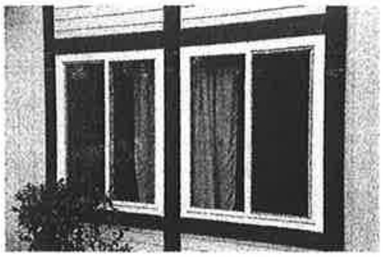
**Write to** Kirsten Grind at kirsten.grind@wsj.com

## Dissatisfied Customers



Lenders in the Property Assessed Clean Energy Program, or PACE, make high-interest-rate loans on solar panels and energy-efficient appliances. Some borrowers say they were misled about the terms of the loans, which are placed as a tax assessment on the homeowner's property bill. Others say work done by contractors used by lenders to broker loans was subpar.

**Energy-Efficient Windows**
$25,000



*ANDREW PETERSON*

Andrew Peterson, a 40-year-old vice principal who lives in Visalia, Calif., says he was sold energy-efficient windows through a contractor with Renovate America, which promised the loan would "pay for itself" through tax rebates. Instead, Mr. Peterson realized, after signing Renovate America's contract, that he would be on the hook for the entire $25,000 loan, an amount that was $15,000 higher than a competing window bid. He said he complained to a Renovate America customer representative in January that the sales process was unethical, an assertion that was disputed by the representative. "It's not right what they're doing," Peterson says. A spokeswoman for Renovate America says Mr. Peterson had three days to cancel the contract with his contractor—and several more days to choose other financing—and decided to move forward anyway.

## Dissatisfied Customers

Lenders in the Property Assessed Clean Energy Program, or PACE, make high-interest-rate loans on solar panels and energy-efficient appliances. Some borrowers say they were misled about the terms of the loans, which are placed as a tax assessment on the homeowner's property bill. Others say work done by contractors used by lenders to broker loans was subpar.

**Air-Conditioning Unit and Leaky Roof**
$54,000

BEBE KLINGE

Bebe Klinge, a 65-year-old widow in Cathedral City, Calif., took out four PACE loans through Ygrene Energy Fund Inc. totaling $54,000 about a year-and-a-half ago, according to Ms. Klinge and the company. Ygrene is the third-largest company in the PACE program. Contractor work, including an air-conditioning unit that doesn't work and a leaky roof, still hasn't been fixed, she says. Painting hasn't been completed inside or outside. She says she complained repeatedly to Ygrene and was told the company couldn't force her contractor to complete the work. "Ygrene has just walked away," she says. Rocco Fabiano, chief executive of Ygrene, says that some of Ms. Klinge's contractor problems are due to side work that wasn't financed through a PACE loan and that she approved the work that was done through Ygrene. "Our commitment to our customers and consumer protection is at the foundation of our company," he says. "We're very sorry she had a bad experience."

https://www.wsj.com/articles/fastest-growing-type-of-loan-faces-political-backlash-1491384612

MARKETS MAIN

# Green-Energy PACE Home Loans Catch Congress's Ire

Efforts are afoot to require regulation of lenders under the Property Assessed Clean Energy, or PACE program

Sen. Tom Cotton plans to introduce legislation that would require private lenders in a popular loan program to be regulated. *PHOTO: J. SCOTT APPLEWHITE/ASSOCIATED PRESS*

By **KIRSTEN GRIND**
April 5, 2017 5:30 a.m. ET

Momentum is building in the U.S. Senate to rein in a popular government-supported loan program used to finance energy-saving home improvements.

Sen. Tom Cotton (R., Ark.) plans to introduce legislation Wednesday that would require private lenders in a loan program known as Property Assessed Clean Energy, or PACE, to be regulated much like traditional mortgage lenders. The bill's co-sponsors include Sen. Marco Rubio (R., Fla.) and Sen. John Boozman (R., Ark.)

If the bill is successful, it would represent a major change for private lenders such as Renovate America Inc., Renew Financial Group LLC and Ygrene Energy Fund Inc., which make high-interest rate loans on solar panels, air conditioning units and other energy-efficient appliances.



Companies say they support the addition of consumer protections to the PACE program. "There is no question that PACE should have disclosures and other requirements that are robust, if not more robust, than other types of consumer finance," said Cisco DeVries, who founded the program in 2007 in California and now is chief executive at Renew Financial.

PACE lenders currently face few restrictions compared with traditional lenders and are minimally supervised through a patchwork of state and county oversight. Partly as a result, PACE loans have become the fastest-growing type of loan in the U.S.

$3.7 billion of loans since the industry was founded. By comparison, conventional mortgages saw growth of about 15.5% in 2016, according to Inside Mortgage Finance.

PACE loans are placed on a homeowner's tax bill as an assessment and average about 000. In the event of a default, they are given priority over a homeowner's mortgage.

States, enticed by offering clean energy to their constituents, first must pass legislation allowing the program to operate. Then local governments—who ultimately will collect a homeowner's taxes—vote to sign on.

PACE lenders have spent years lobbying federal government agencies, the White House and state and local legislators to facilitate the program's nationwide expansion, according to state records and local officials. But PACE is facing mounting criticism nationwide from regulators, investors and government officials as borrower problems worsen.

In California, several state agencies have asked Gov. Jerry Brown to make regulatory and legislative changes to help fight against borrower abuse, say people familiar with the requests. A spokesman for the governor's office said it supports bolstering consumer protections and "discussions are under way with legislators, consumer groups and others to do just that."

New Jersey Senator Bob Smith, a Democrat, says he had been working to introduce a residential PACE bill in this year's legislative session but has decided to abandon the plan after reading about homeowner problems in the Journal. "I'm going to put it on the back burner until I can figure out what the appropriate protections are so consumers are not adversely affected," he said in an interview.

One of private lender Renovate America's largest and oldest partnerships is with a collection of Southern California governments known as the Western Riverside Council of Governments. The group is starting to register concerns about its relationship with the company, according to emails released to the Journal through a public records request. The council is reviewing its partnership with Renovate America through an outside examiner, according to county records. Renovate America said it supports the review.

Some investors also are getting skittish. The New York-based Heron Foundation, with a goal of tackling poverty, said it divested of its PACE bonds after reading about borrower problems in the Journal and separately looking into how the loans are made. The foundation is concerned that PACE lenders bypass "traditional underwriting procedures," like a homeowner's ability to repay the loan, it wrote in a blog post explaining the decision.

"Skipping these investigations can lead to a big jump in the cost of homeownership—and potentially to the loss of the home," the foundation wrote.

Lenders are facing growing complaints from borrowers.

Homeowners in Florida and California in March filed a lawsuit seeking class action status against Ygrene—the third-largest PACE lender—alleging the company uses "deceptive sales practices," and relies on "ill-trained and self-interested home improvement contractors," to make loans, according to the suit, which seeks a jury trial. A Ygrene spokesman said the suit lacks merit.

Renovate America is also facing a class-action lawsuit alleging the company overcharged on fees without telling homeowners. The company has denied the allegations and moved to dismiss the suit.

Bebe Klinge, a 65-year-old widow in Cathedral City, Calif., took out four PACE loans totaling $54,000 from Ygrene two years ago. She says contractors haven't finished the work on her home, Ygrene hasn't fixed the problems, and she is struggling to keep up with the payments.

"It's what I've been asking for since I started asking for help since December 2015—why is this not regulated?" says Ms. Klinge. Ygrene said Ms. Klinge's contractor problems occurred largely outside of the PACE program and the company is sorry she had a bad experience.

**Write to** Kirsten Grind at kirsten.grind@wsj.com

# With some borrowers struggling with a new kind of home-improvement loan, reforms are on the table

Workers install solar panels on a roof. Lawmakers and lenders are weighing more consumer protections for PACE loans, which pay for energy-efficient home improvements, after some borrowers said they didn't understand what they were getting into. (Irfan Khan / Los Angeles Times)

By **Andrew Khouri**

JUNE 4, 2017, 5:00 AM

Business has been good for contractors whose home-improvement jobs are financed by a new program known as PACE.

Lenders eager to fund the program's energy-efficiency projects offer contractors online tools to manage their business and sign up customers.

For example, contractors can type an address into an online portal, and if the homeowner likely qualifies, a dollar figure pops up.

That allows contractors to not only prioritize door-to-door sales by who qualified for the most funds, but allows them to pitch improvements requiring every cent.

"If they are qualified for $50,000, the contractor is going to try to sell the homeowner $50,000 worth of solar panels regardless if that house needs $50,000 worth of solar panels," said Clark Calhoun, an attorney with Alston & Bird which is handling a case involving PACE loans.

PACE lending, hardly a blip a few years ago, is booming, in part because contractors have become enthusiastic salespeople taking advantage of participating lenders' easy-to-use mobile and online systems. Qualifying is easy — largely based on homeowners' equity and doesn't take into account credit score or income.

The financing programs, formally known as Property Assessed Clean Energy, are established by governments to help homeowners pay for energy-efficient appliances and projects through loans that are paid back as line items on their property tax bills.

The programs can be a moneymaker for governments, which collect the loan payments and turn them over to the lending companies, which pay and manage the contractors.

Now, the nascent industry is running into criticism unwary homeowners are being roped into loans that they neither need nor understand.

Consequences could be dire, because if the five- to 30-year loans go unpaid, a borrower can face foreclosureas as if a mortgage weren't paid.

Homeowners have accused contractors of misrepresenting the financing and terms of repayment, which has prompted the industry and government officials to undertake reforms. The industry's largest lender, Renovate America in San Diego, recently decided to stop revealing to contractors how much financing a homeowner qualifies for.

Rocco Fabiano, chief executive of Petaluma-based Ygrene Energy Fund, another big PACE lender, put his company's reform efforts this way: "This is a continuous improvement process," he said. "Every month we are getting tighter and better."

PACE programs got their start in 2008, when then-Gov. Arnold Schwarzenegger signed legislation aut[illegible]et up the special form of financing to pay for energy-efficient home improvements.

The programs got off to a slow start, but have since expanded to other states. And with residential PACE lending topping $1.5 billion nationwide in 2016, up from just $350 million two years earlier, the industry has caught the eye of regulators and legislators from Sacramento to Washington.

The California Contractors State License Board has asked the lenders to take a "more active role" to ensure contractors are properly trained as salespeople, a spokesman said.

In Congress, two bills would treat the loans more like mortgages, and last year the U.S. Department of Energy released consumer-protection guidelines, which call for tightening underwriting standards and contractor oversight.

The major private lenders say the vast majority of their customers come away happy. The industry says it's embracing many of the reform efforts — some of which come from program proponents.

Last year, Gov. Jerry Brown signed new protections into law, including a requirement for improved, standard disclosure forms.

"The Governor continues to support PACE as a way for Californians to play their part in responding to a rapidly changing climate," spokeswoman Ali Bay said in an email. "We're open to additional opportunities to continue improving the program."

California state Sen. Nancy Skinner (D-Berkeley), another supporter, has authored SB 242, a bill that would write Renovate America's recent change into law by banning companies from revealing to contractors how much financing people were eligible for.

Skinner said that she's heard anecdotal stories of hardship from PACE but that there have been "very few problems in California." She said she modeled her legislation after the best-practices guidelines from the Department of Energy.

Her bill, now in the Assembly after passing the Senate last month, would also require PACE borrowers to state their income and lenders to make a "good faith determination" that a property owner has a "reasonable ability" to meet payments based on income, assets and current debt obligations.

Additionally, it would require forbearance programs to allow borrowers to catch up on delinquent loans. In some cases, lenders would have to independently verify income if an annual PACE payment reaches a particular size.

"I want PACE to grow, and if you have growth, you obviously want to make sure growth is as responsible as possible," Skinner said.

Both Renovate America and Renew Financial, another big lender, said they support the bill and its income requirements. Renovate said it will start taking income into account later this month.

Ygrene CEO Fabiano said his company doesn't think the income requirements are needed but supports the bill and "working with all parties" to craft good legislation.

But consumer groups say more needs to be done, and they aren't convinced the income verification requirements are adequate.

Dipti Singh, directing attorney with pro bono law firm Bet Tzedek, said lenders still wouldn't have to verify income for many people, including many low-income individuals and seniors on fixed income, whose annual payments would be below the threshold.

"We know from the recent foreclosure crisis that income and debt obligations can't merely be stated — they have to be verified," Singh said.

Though the PACE industry has been receptive to changes in California law, it strongly opposes an effort in Congress to put the loans under the federal Truth in Lending Act — a move that would treat the financing more like a mortgage and subject the lenders to oversight from the federal Consumer Financial Protection Bureau.

Upon introducing their Senate bill, Sen. Tom Cotton (R-Ark.) called PACE loans a "scam" and Sen. Marco Rubio (R-Fla.) said "residential PACE loans should have to play by the same rules as other forms of home financing."

The Mortgage Bankers Assn. has been one of PACE's biggest critics, because the loans are usually secured by a first lien on the property. That means the holder of the PACE loan, typically an investor who has bought a PACE bond, gets paid ahead of the mortgage holder if there is a foreclosure.

PACENation, a trade group, has characterized the Senate bill as a banking lobby effort to "kill one of America's most successful energy-efficiency and clean-energy financing models."

The industry says placing PACE under the Truth in Lending Act would impose burdensome regulations that would be difficult to comply with, including making contractors become licensed mortgage brokers. National organizations for local governments have pushed back as well, saying the proposed changes would hobble their ability to collect tax assessment payments for the private lenders.

A Renovate America spokesman echoed those concerns but said the company isn't opposed to having the CFPB as a regulator.

Rep. Brad Sherman (D-Porter Ranch), who introduced a similar bill in the House, said he's working working with PACE companies to avoid "complications."

"I am certainly not hostile to the PACE program," Sherman said. "It does an awful lot of good. But at the same time, people ought to know what they are getting into."

The companies say they are already taking steps to improve consumer protections, after working with regulators and consumer groups on best practices.

For example, Renovate America launched a new contractor rating system and has removed more than 80 companies from its approved contractor list — a decision the company says led to declining revenue and layoffs announced last month.

"To the extent we find someone is not following the rules, we kick them out of the program," said CEO J.P. McNeill.

Renovate America and Ygrene also said that in recent months they've started to have phone calls with all homeowners to ensure they understand the terms before taking out a loan — a Department of Energy recommendation also proposed in Skinner's bill.

Renew Financial said it's always called all consumers since launching its program but is more frequently sending a third party to inspect contractors' work after a job is completed.

Cliff Staton, an executive vice president with Renew Financial, said consumer protection is a joint responsibility shared with local governments who authorized the programs and set certain standards. He said that companies like his are sometimes limited in what they can accomplish on their own.

Indeed, PACE has caused some headaches for Los Angeles County.

The county — which has partnered with Renew Financial and Renovate America — is facing a class-action lawsuit that alleges its program with Renovate America charges hidden fees and interest. Renovate America, which is also named in the lawsuit, said it finds "no merit in the allegations."

The L.A. County Internal Services Department, which oversees the county's PACE program, declined a request for an interview, citing pending litigation. But Scott Minnix, the department's director, said the county has worked with private lenders to "ensure the highest standards of consumer protection and fiscal accountability."

The Western Riverside Council of Governments, which operates one of the largest residential programs in the country and collects millions in PACE fees each year, recently intensified its review of new loan applications.

Executive Director Rick Bishop said that in addition to confirmed sales calls from lenders, the agency has started calling to confirm terms a second time with many borrowers so it could ensure they were "fully aware of this and thinking it through."

John Rao, an attorney with the National Consumer Law Center, said he's glad reform is underway, but was "surprised by the lack of basic consumer protections at the beginning."

"It's unfortunate to be playing catch-up now after so many loans have been made and so many consumers have been harmed," he said.

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http://www.heron.org/engage/pulse/pace-bonds-mission-investment-its-complicated

# HERON

## PACE BONDS: MISSION INVESTMENT? IT'S COMPLICATED.

Mar 9, 2017 Thinking On...

As Heron continues to optimize our portfolio for mission, some types of impact look great in isolation—but less so in context.

News headlines are, by design, often arresting and sometimes alarmist, and one might be forgiven for reading the news with a wary (or weary) eye. So when, in the January 11th Wall Street Journal, a headline blared about a new kind of loan which cautioned of "the next subprime" crisis waiting to happen, we at Heron were initially skeptical.

### The Rise of PACE

The WSJ highlighted a financing structure that looks pretty appealing at first glance. The structure relies on partnerships between local municipalities, a private administrative agent, and local contractors who help homeowners and commercial landlords invest in energy retrofits for their properties by covering upfront financing, equipment and installation costs (typically through a bond issue to third party investors). Property owners repay this advance through an increase in property taxes for a fixed period of time—thus the name, Property Assessed Clean Energy or "PACE" financing.

PACE financing has caught the green bond wave and is growing rapidly, with cumulative financing approaching $4b at the end of 2016. At present, 19 states plus the District of Columbia have active PACE programs enabled by legislation, although California, as the early adopter, is far and away the most active.

Upon examination of our portfolio, we discovered that Heron was one of many investors with exposure to PACE bonds through one of our bond managers. Our bond manager provided a thorough fundamental analysis of the product and assurance that our interests, as an investor, were professionally evaluated.

However, the WSJ's presentation of the residential homeowner's perspective still had us concerned. Our team embarked upon a journey of inquiry beyond the immediate financial risk and return profile of the position into the net effect, across all stakeholders, of this emerging financing program. How would this affect the ability of people and communities to help themselves (or keep themselves) out of poverty? How should we think about the net benefits or detriments of the investment to people, place, and planet, and the tradeoffs between different stakeholders?

## PACE is Beautiful...

After a series of discussions and some amateur sleuthing, it was evident why PACE bonds appear especially attractive to environmentally conscious investors. According to the EPA, roughly 40% of the greenhouse gas emissions in the U.S. comes from electricity production (broadly) and the heating & waste management systems of commercial and residential properties. Experts suggest that retrofitting existing buildings is key to addressing climate change. PACE provides estimates of annual energy savings, water savings, and greenhouse gas emission reductions to gauge impact of the projects it funds.

Financially, the bonds receive a comparable yield to mortgages while occupying a senior lien on the underlying properties, which makes them attractive to investors who want a good return with low risk.

And on the surface, PACE loans make for an attractive option for homeowners as well: They are quick and relatively easy to obtain, while the expected energy savings and potential increase in the value of the home after the renovation are estimated to cover the cost of the increased tax bill. Lastly, the timing can be appealing: Since contractors such as plumbers and repairmen are the approved marketers, they can offer the loans to homeowners "in their time of need"—such as in that moment when the old pipes have burst and need replacing anyway.

## ...But Not For Everyone

A homeowner who is a sophisticated real estate investor, money manager, and mathematician might sit down to compare the implied interest rate of the increased tax bill to credit card debt (PACE would be better) or to a Home Equity Line of Credit from the bank (the HELOC would win). They might be able to think through whether the increased value of the home would be offset by the unwillingness of the buyer to pay a premium for a property with a tax lien. They might do an energy audit to be certain that the energy savings cover the price of the loan. And they might be disciplined enough to set aside the amount of the estimated savings for six months until the tax bill is due.

But what about the average homeowner who actually applies for these loans? The current sales practices bypass traditional underwriting procedures such as calculating debt-to-income assessments and similar ability-to-pay ratios. Skipping these investigations can lead to a big jump in the cost of homeownership—and potentially to the loss of the home. Those are the same kinds of protections that could have prevented the subprime mortgage crisis and which have been subsequently mandated for mortgage lenders by federal regulations.

That brings us back to our alarming WSJ headline. In this story, however, the mortgage lenders formerly the 2008 villains—may join some homeowners as victims instead (along with the investors that buy their pools of mortgages). Why? Because the PACE tax liens take seniority over the residential mortgage. This is valuable for those who invest in pools of PACE loans, who will get paid back first, but bad for the mortgage lender who has very little transparency into how the value of their investment might be compromised by this additional debt burden on the homeowner.

Lastly, PACE can lead to awkwardness for the municipality that is partnering with the loan issuer: In the event a homeowner can't repay, it's going to be hard to win the trust and votes of folks after you've foreclosed on their friends and neighbors.

## The Search Continues

So the question remained: What should Heron do next? Do we divest entirely? Do we try to put certain parameters around which PACE loans are acceptable investments for our portfolio? Do we try to work within the system to change how PACE financing works?

We are starting by divesting from our residential PACE investments, but the journey does not end here. In the course of our investigation, we learned that the protections built into commercial PACE loans lead to a significant difference in how the benefits and risks are distributed. Commercial transactions appear to have generally positive results for everyone involved, while residential transactions expose the homeowners and their mortgage lenders to disproportionate risk.

So how do we build in better protection for consumers and mortgage holders? One place to start is with the Department of Energy's Best Practice Guidelines for Residential PACE Financing Programs [PDF]. The guidelines explicitly call out best practices for PACE by "encouraging" energy assessments, "recommending" that the lender reviews the homeowner's income, and "suggesting" that mortgage holders are notified of any tax lien placed on the home that is senior to the first mortgage.

One easy step would be to mandate such best practices, rather than "encourage" them. PACENation, an industry association, followed suit recently with its own consumer protection recommendations for residential programs. These are a step in the right direction, yet lack the enforcement teeth that a regulatory agency or government oversight would bring.

As impact investors, this has underscored the importance of not wearing impact-blinders, but looking at the total contribution or risk of our investments. Divesting from coal without investing in Appalachia can decimate communities; investing in job growth stories without looking at product lines can bring private prisons into your portfolio, and so on. As we've now learned, in the case of PACE, investing for the environment and jobs without taking the whole picture into account can mean putting homeowners at risk. No one can serve ALL missions, but we can all serve our missions while still being conscious of our effects on other stakeholders—and it's important that we do so.

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*Editor's Note: On the day of publication for the above post, the Wall Street Journal published a second article, headlined "Renovate America Masked Borrower Debt Woes" (also by Kirsten Grind), which appears to confirm our concerns about the effects on homeowners. Referring specifically to the PACE bond issuer in which Heron was (until recently) invested, the article* *states: "The San Diego-based company enjoys the backing of municipalities and big-name Wall Street investors, thanks in part to its record of ultralow customer defaults. But Renovate America... has masked problems with some borrowers by paying off their debts if they struggle to keep up with payments, according to former Renovate America employees."*

For more information go to
www.SLAPfinance.com

Check this database to see if a grant, low-interest loan or rebate is available before you SLAP yourself:
http://www.dsireusa.org/

# HOMEOWNERS

In California there are little cost savings in replacing single-pane windows or other functional equipment such as furnaces and air conditioners.

**California is divided into two mild climate zones.**

According to Energy Star documents:

Homeowners in the North Central climate zone will save approximately $65 a year by replacing single-pane windows.

Homeowners in the South Central climate zone will only save approximately $365 a year.

Since the average cost of double-pane windows is around $27,000 (not counting interest over the SLAP period) it is virtually impossible to recover the costs of the improvement.

(Replacing windows is a popular SLAP renovation)

**Homeowners who want to improve the energy efficiency of their home will receive the best value by:**

Replacing inefficient appliances with Energy Star® rated replacements.

Using inexpensive caulking & weatherstripping.

Homeowners may also be able to take advantage of local, regional, state and federal grants or low interest loans.

Many electricity providers offer free replacements for old appliances.

**IF THESE RENOVATIONS WON'T SAVE YOU MONEY - WHAT'S THE POINT?**

HERO's written instructions to representatives cautions them to:

## DON'T SAY

- HERO will save you money.
- HERO is tax-deductible.
- HERO payments are transferable to a new owner if you sell.
- HERO upgrades will increase your home's property value.
- HERO is the best borrowing option for homeowners.
- HERO interest rates are "low" or "affordable."
- You are pre-approved or pre-qualified.
- HERO is a government program OR the government can help you pay for the improvement.

# SLAP

## PACE-TYPE ENERGY IMPROVEMENT LOANS ARE SELF-IMPOSED LIENS AGAINST PROPERTY

*Don't SLAP yourself until you get the facts*

## WHAT ARE PACE, HERO AND YGRENE?

PACE is a type of financing authorized by federal law. Property assessed clean energy (PACE) was devised as a way for homeowners to finance energy efficient improvements through property tax payments. Home energy renovation opportunity (HERO) and (YGRENE) are California based programs.

## PROGRAMS

These programs are NOT government programs, but programs allowed by local governments.

**These programs are known for high fees and interest rates.**

INITIATION FEE (currently 4.99%)

INTEREST RATES currently between 5.25% to 8.99% (depends on term).

**The marketing materials claim:**

Homeowners will save money on the replacement of various items.

The tax assessment is transferable

Increases property value.

**For more information go to [www.SLAPfinance.com](www.SLAPfinance.com)**

## FINANCING SCHEMES

Allow a homeowner to voluntarily add to their property tax burden. Any debt incurred will be collected by the local county tax collector.

Any construction, renovation, equipment and financing cost is paid as an additional assessment added to existing property taxes.

Any late or non-payments will incur the same penalties as not paying property taxes and could result in foreclosure.

Generally these assessments must be paid off in advance before resale or refinancing.

**There have been significant problems with conventional financiers by:**

- Requires 1st mortgage holder's approval before the homeowner signs the contract.
- Refusing to refinance or allow resell without the seller first paying off the SLAP.
- Refusing to accept these super-priority lien assessments.

**The Department of Energy (DOE) best practices requires that any SLAP financing pay for itself through energy cost savings.**

**The DOE acknowledges the public benefit of the PACE program requiring the best finance terms for the consumer.**

These best practices are routinely ignored by PACE providers.

The cost savings of the renovation divided by the cost of the SLAP over the life of the financing should be greater than 1.

Example: savings from installing double-pane windows ($65x20yrs=$1,300) divided by $32,000. (will never pay for itself)

# These loans were created to help homeowners, but for some they did the opposite

Ossie Hill, 86, right, cries over the possibility of foreclosure of her Los Angeles home as her daughter Cassina Edwards, 59, looks on. Hill is facing annual payments of $5,500 for a roughly $50,000 loan through the PACE program. (Genaro Molina / Los Angeles Times)

By **Andrew Khouri**

JUNE 4, 2017, 5:00 AM

After nearly half a century at the house on South Sierra Bonita Avenue in Los Angeles, Ossie Hill wanted to spruce up the two-bedroom home she and her late husband purchased in the early 1970s.

But the 86-year-old didn't have the money.

Then her daughter, Cassina Edwards, had an idea, recalling radio ads for a local home-improvement contractor: "We can help you. Low income. No credit check. Government program. Give us a call."

So Edwards did.

Now her mother, who receives $11,600 a year from Social Security and suffers from dementia, is struggling with a roughly $50,000 loan paid through a $5,500 annual tax assessment — an increasingly popular form of home-improvement financing known as PACE.

Edwards said the contractor explained that "a government program" would help the octogenarian afford the improvements, but never explained how the payments would work or warned them Hill could lose her house if payments were missed.

The first $5,500 bill last year came as a surprise, said Edwards, who helps manage her mother's finances. With her mother unable to afford it, it has gone unpaid.

"I want my mother to keep her home. This is all she has," Edwards said on a recent afternoon, as Hill sat next to her, eyes closed, head rested on her cane. "It's pretty sad that they prey on people for your lack of knowledge. If you came in and were truthful about it, this would have never happened."

Consumer groups, regulators and lawmakers are increasingly raising concerns about Property Assessed Clean Energy loan programs, which are authorized by governments but largely administered and funded by private lenders. In particular, the focus is on independent solar, plumbing and roofing contractors who pitch the loans and sign up consumers through online software — a system that's drawn scrutiny but helped the industry grow aggressively.

The total amount lent for residential PACE projects topped $1.5 billion in 2016, up from $350 million just two years earlier, according to trade group PACENation.

The loan programs are meant to serve a public good — allowing more people to finance solar and other energy-efficiency projects.

The loans are secured by a property lien and if unpaid a borrower can be foreclosed upon. Consumers put no money down and usually don't pay anything for at least six months. Eligibility is largely based on home equity. Credit score and income are not a factor.

Many consumers simply know their loans as the HERO program, the name of the PACE program from the industry's biggest lender, Renovate America in San Diego.

Critics say PACE can serve a worthy purpose, but worry too many consumers are agreeing to loans they don't need or understand after being contacted by aggressive contractors, who often make cold calls or engage in door-to-door marketing.

According to lawsuits and interviews with borrowers and their advocates, some contractors are inflating the cost of their services and misrepresenting how much the loans cost or how they are paid back.

Contractors can get consumers approved on the spot, having them sign documents on a tablet computer — an experience advocates say can be confusing, particularly for elderly homeowners. Lenders then send final financing documents to homeowners for their signature, with the process taking a few hours to several days.

"They go out and push these sales and these projects without really any care whether people can actually afford it or not," said David Hiller, a Pasadena attorney who has handled PACE cases for consumers. "It feels exactly like what was going on with mortgage lending precrisis."

The three major private lenders — Renovate America, Renew Financial of Oakland and Ygrene Energy Fund of Petaluma, Calif., — say most of their customers come away happy and point to low default and delinquency rates as evidence the programs are working.

Cisco DeVries established the first PACE program last decade while working for the city of Berkeley, later founding Renew Financial, where he is the chief executive. He says PACE has "democratized clean energy" by allowing consumers without much cash and less-than-stellar credit to fix their homes.

"We have had homeowners in tears" after they finally could finance repairs, DeVries said. "Any public policy, any private effort, by nature is going to be imperfect. But PACE has to be one of the most successful energy-efficiency programs in the history of the state and the country."

The Western Riverside Council of Governments launched its PACE program in 2011 as a way to use private money to support a decimated construction industry and help homeowners conserve energy.

It has partnered with Renovate America and Renew Financial to offer loans and now oversees one of the largest PACE operations in the U.S., covering more than 380 municipalities statewide after it opened eligibility beyond Riverside County. In the last fiscal year, PACE fees accounted for $9.5 million of the council's revenue, or 17.5% of its total budget, said Rick Bishop, the group's executive director.

“Generally, it’s been really, really positive,” Bishop said of PACE. “We have hundreds and hundreds of really solid contractors. It’s a little disappointing the contractors are all getting painted with the same brush.”

A more typical experience, proponents say, is that of Lorri MacMillan, who last year used a $14,000 HERO loan to pay for an air conditioner. The Rancho Santa Margarita resident said her contractor didn’t misrepresent anything and Renovate called her to go over terms in detail — something the company said it began doing for every customer in recent months.

“It was a great process,” the 54-year-old bank systems analyst said.

PACE programs got their start in 2008 when Gov. Arnold Schwarzenegger signed legislation that authorized the special type of financing.

To fund the programs, governments issue bonds backed by the borrower tax assessments and then typically transfer collection rights to private PACE companies. The firms take those assessment bonds and compile them into securities and sell them on Wall Street to finance new loans.

Across the nation, less than 1% of all securitized PACE loans that Kroll Bond Rating Agency tracks have defaulted, said Cecil Smart, a senior director at the company.

Renovate America said over the last five years, none of its clients have been foreclosed on for not paying their PACE loan, but nearly 80 homeowners with such financing, or 0.08% of the total, have been foreclosed upon after they didn’t pay their mortgage.

Consumer advocates say it's too early to tell if those rates will hold.

Renovate America has also drawn scrutiny from regulators following several Wall Street Journal stories, including one that revealed the firm paid the debts of some borrowers but didn’t tell bond investors. The company said it did so in 83 cases in which borrowers were confused about when their payments would start.

Christian Guzman hasn’t defaulted on his PACE loan, but he said he’s struggling after a contractor walked through his L.A.-area neighborhood two years ago and asked if he wanted a free estimate to fix his roof.

A few days later, Guzman said the contractor from All American Design in Torrance came back and told him he was qualified for more than $46,000 in HERO financing, which would cover a new roof and solar panels. Guzman said he agreed to both and signed documents on a tablet after the contractor told him a government grant would cover the $26,000 roof.

He recalled the tablet showing he would only pay around $20,000 in total, but acknowledged he didn't get a good look at the device.

"He held on to it pretty well. We saw only what he wanted us to see," Guzman said.

After the job was complete, he said he received a final payment schedule from Renovate that detailed he would owe much more — over $12,000 annually for five years — and later learned there would be no government grant.

The All American salesperson told him not to worry, and "after a while he just stopped answering," the 29-year old electrician said. Guzman also reached out to Renovate for help, but said he was told there was nothing they could do.

Renovate said Guzman's signature was electronically signed on a financing contract that detailed the more than $12,000 annual payment a week after the first document he signed, which was an application.

Guzman said he doesn't recall signing the second document.

"I honestly don't know how I am going to do this," he said. "It's an extra $1,000 a month I don't have."

All American Design did not respond to requests for comment. Renovate said it has kicked All American out of its program because the company didn't meet its standards under a new contractor rating system.

Today, California, Florida and Missouri have active residential PACE programs, while 19 other states have authorized such financing though programs aren't up and running, according to PACENation. Many states also have commercial PACE programs for businesses that have proved far less controversial.

The residential loans average around $25,000 and run five to 30 years. The loans typically carry rates of 6.5% to 8.49%, meaning with today's low-interest rates someone with good credit can often get a better deal with a home equity loan.

Most governments turn to private PACE companies to run the programs. The companies, meanwhile, use contractors to sell the loans.

"It's pretty painless as far as qualifying," contractor William Redmond, co-owner of AlumaCovers in Riverside, said of the HERO program. "It allows a client to afford what normally they couldn't afford. So, it's opened up another channel of new [sales]."

Speed is part of the allure.

Ygrene promises contractors training, lead generation, marketing materials and the ability to get customers "pre-approved in 30 minutes or less." Renovate offers "state-of-the-art tools" to "streamline every stage of your project." Renew Financial pledges that contractors can "submit financing documents with your customer at the kitchen table."

Redmond says he hasn't heard of contractors misusing PACE and that he tells clients to direct financing questions to Renovate.

"They don't make things complicated and they don't make a bunch of red tape," Redmond said.

But consumer groups say the swift approval process — along with weak contractor oversight and lack of underwriting — is leading to problems.

"When someone is weighing a $45,000 loan to put solar panels on the house, why do they need speed for that?" said John Rao, an attorney with the National Consumer Law Center. "You should not be rushing people through for these major retrofits."

The companies add that they disqualify for bankruptcies and missed mortgage payments and say speed is often needed for emergency repairs such as a broken air conditioner in 100-plus degree heat.

Borrowers also have a three-day right to cancel and contractors aren't paid until a homeowner signs off on a completed work form, Ygrene CEO Rocco Fabiano noted.

The three major companies are taking steps to improve consumer protections. For example, they say they now have a phone call with all consumers before approving a loan to ensure they understand the terms of financing — as recommended by the Department of Energy late last year.

Renovate said it will start using income as part of its underwriting later this month and in January it launched a new contractor rating system, removing more than 80 companies — 10% of the contractors that frequently used its financing.

Rao, of the national consumer group, acknowledged that consumers have long complained about aggressive, unethical contractors, but said PACE put those problems "on steroids," given how easy it is to qualify for funding.

"They are making a lot of money and they are creating the financial opportunities for these contractors," he said.

The California Contractors State Licence Board is investigating 50 cases in which consumers alleged solar contractors misrepresented PACE financing. Those making the complaints are often elderly or don't speak fluent English.

Two lawsuits filed in Los Angeles County allege that an employee from G.E. Solar Solutions of La Mirada signed homeowners up for Ygrene PACE financing after pitching the loans as leases for solar panels that would be paid off through their energy bills and also save them thousands of dollars.

The homeowners, who speak only Spanish, allege their signatures were forged on English-only Ygrene contracts and they estimate their debt exceeds $100,000, according to the two complaints.

One of the owners, Dolores Artiga, said she worries she can't keep up with the loan payments.

"It is difficult," Artiga, who works for a cleaning company, said in Spanish. "What I make is not enough money to pay this."

In court documents, an attorney for G.E. Solar denied the allegations.

In a statement, Ygrene said G.E. Solar, not Ygrene, is alleged to have misrepresented the financing and, if those allegations are true, the contractor's actions are "inconsistent with Ygrene's consumer protections policies and procedures."

Scott Minnix, director of the L.A. County Department that overseas PACE, said in a statement that the county has worked with its partners, Renovate America and Renew Financial, "to ensure the highest standards of consumer protection and fiscal accountability."

The county said that there has been no PACE foreclosures and that it has set up reserve funds to cover missed borrower payments for a time, making a quick foreclosure unlikely for those who've missed PACE payments.

Even so, Edwards, the daughter of the Los Angeles homeowner, is worried and in April filed a lawsuit against Renovate and 360 Remodeling of Burbank, which painted her mother's house and installed windows and a patio cover it said would reduce energy use.

The lawsuit alleges a 360 Remodeling employee tricked Hill into signing up for a loan with an annual payment of more than $5,000 by asking her to sign a tablet to only authorize her creditworthiness.



A final contract for Edwards and Hill to review was to be put in the mail, the complaint says.

In a court filing, the 360 Remodeling employee denied all allegations.

Frank Cicora, the company's general manager, said he didn't know what the worker said, but the family knew Hill was taking out a loan and the financing terms would have been explained on the tablet and by Renovate over the p hone.

"They are upset because they can't afford something they committed to," he said, adding the family agreed to move ahead with the project.

A spokesman for Renovate denied the complaint's allegations, which include weak contractor oversight, and said the company will defend itself vigorously. He said 360 Remodeling "scores well" in Renovate's contractor rating system.

Edwards said a final contract to review never came in the mail, but she trusted the contractor, who quickly began ripping up the outside of her mother's home.

"They already tore down the house. If I told them to stop, who would fix it?" Edwards said, sitting next to her mother on the living room couch. "This situation has been very stressful for my mom."

A few minutes later, Hill began to tear up and asked to leave.

**Part 2: With some borrowers struggling, regulators, polticians and the industry grapple with reform. »**

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# With some borrowers struggling with a new kind of home-improvement loan, reforms are on the table

Workers install solar panels on a roof. Lawmakers and lenders are weighing more consumer protections for PACE loans, which pay for energy-efficient home improvements, after some borrowers said they didn't understand what they were getting into. (Irfan Khan / Los Angeles Times)

By Andrew Khouri

JUNE 4, 2017, 5:00 AM

Business has been good for contractors whose home-improvement jobs are financed by a new program known as PACE.

Lenders eager to fund the program's energy-efficiency projects offer contractors online tools to manage their business and sign up customers.

The programs got off to a slow start, but have since expanded to other states. And with residential PACE lending topping $1.5 billion nationwide in 2016, up from just $350 million two years earlier, the industry has caught the eye of regulators and legislators from Sacramento to Washington.

The California Contractors State License Board has asked the lenders to take a "more active role" to ensure contractors are properly trained as salespeople, a spokesman said.

In Congress, two bills would treat the loans more like mortgages, and last year the U.S. Department of Energy released consumer-protection guidelines, which call for tightening underwriting standards and contractor oversight.

The major private lenders say the vast majority of their customers come away happy. The industry says it's embracing many of the reform efforts — some of which come from program proponents.

Last year, Gov. Jerry Brown signed new protections into law, including a requirement for improved, standard disclosure forms.

"The Governor continues to support PACE as a way for Californians to play their part in responding to a rapidly changing climate," spokeswoman Ali Bay said in an email. "We're open to additional opportunities to continue improving the program."

California state Sen. Nancy Skinner (D-Berkeley), another supporter, has authored SB 242, a bill that would write Renovate America's recent change into law by banning companies from revealing to contractors how much financing people were eligible for.

Skinner said that she's heard anecdotal stories of hardship from PACE but that there have been "very few problems in California." She said she modeled her legislation after the best-practices guidelines from the Department of Energy.

Her bill, now in the Assembly after passing the Senate last month, would also require PACE borrowers to state their income and lenders to make a "good faith determination" that a property owner has a "reasonable ability" to meet payments based on income, assets and current debt obligations.

Additionally, it would require forbearance programs to allow borrowers to catch up on delinquent loans. In some cases, lenders would have to independently verify income if an annual PACE payment reaches a particular size.

"I want PACE to grow, and if you have growth, you obviously want to make sure growth is as responsible as possible," Skinner said.

Rep. Brad Sherman (D-Porter Ranch), who introduced a similar bill in the House, said he's working working with PACE companies to avoid "complications."

"I am certainly not hostile to the PACE program," Sherman said. "It does an awful lot of good. But at the same time, people ought to know what they are getting into."

The companies say they are already taking steps to improve consumer protections, after working with regulators and consumer groups on best practices.

For example, Renovate America launched a new contractor rating system and has removed more than 80 companies from its approved contractor list — a decision the company says led to declining revenue and layoffs announced last month.

"To the extent we find someone is not following the rules, we kick them out of the program," said CEO J.P. McNeill.

Renovate America and Ygrene also said that in recent months they've started to have phone calls with all homeowners to ensure they understand the terms before taking out a loan — a Department of Energy recommendation also proposed in Skinner's bill.

Renew Financial said it's always called all consumers since launching its program but is more frequently sending a third party to inspect contractors' work after a job is completed.

Cliff Staton, an executive vice president with Renew Financial, said consumer protection is a joint responsibility shared with local governments who authorized the programs and set certain standards. He said that companies like his are sometimes limited in what they can accomplish on their own.

Indeed, PACE has caused some headaches for Los Angeles County.

The county — which has partnered with Renew Financial and Renovate America — is facing a class-action lawsuit that alleges its program with Renovate America charges hidden fees and interest. Renovate America, which is also named in the lawsuit, said it finds "no merit in the allegations."

The L.A. County Internal Services Department, which oversees the county's PACE program, declined a request for an interview, citing pending litigation. But Scott Minnix, the department's director, said the county has worked with private lenders to "ensure the highest standards of consumer protection and fiscal accountability."

http://www.bakersfield.com/i-see-this-as-putting-our-communities-at-risk-kern/article_35239e7b-62a1-5af8-8b63-4a0ca87340fb.html

# 'I see this as putting our communities at risk.' Kern County Board of Supervisors votes to end PACE program

BY JAMES BURGER jburger@bakersfield.com Jun 13, 2017

Kern City resident Chris Morgan wraps up his comments to the Board of Supervisors in favor of the PACE progr

Felix Adamo/The Californian

“This is not a public war. This is about policy. This is about the public good,” Supervisor Mick Gleason said. “We’re allowing people with poor credit rating to qualify for a loan they otherwise can’t afford. I think there’s a problem with the idea of this PACE stuff.”

Supervisor Leticia Perez voted against the motion, saying she wanted more information.

The City of Bakersfield is also debating whether to continue allowing the PACE program to operate in its jurisdiction. No decision has been made.

PACE supporters argued passionately Tuesday that the financing tool is a critical option for homeowners and builds up the business of local contractors.

Hazel Solis of Tehachapi said it's been a blessing for her family. It used PACE to add energy-efficient windows, which have made their home much more livable, she said.

“We do plan to use the program again after we pay this loan down,” she said. “I hope the program can stay around so we can use it again.”

Paul Mince, an installer with Northwest Exteriors, said PACE is the reason he has a job after losing construction and oil field work. He was even able to get his son a job.

Without PACE, he said, “I and a lot of other guys out there with dirty shirts will be on the unemployment line.”

Laura Booker said she couldn’t get fire insurance because her home had a shake roof.

A PACE loan gave her a new roof, insulation and solar panels — dropping her power bills from $400 to $10 a month.

“This whole deal improved my quality of life in a manner I wouldn’t have been able to accomplish on my own auspices,” she said.

But the program has drawn the ire of local real estate professionals who say property owners are being sold a bill of goods only to find out later they cannot refinance or sell their homes.

And, Kaufman said, when a person defaults on a PACE lien, the interest rate goes up to 18 percent and, though his office has to collect that penalty rate, that money is paid directly to the PACE provider.

He said a critical piece of legislation, AB 271, would allow treasurer-tax collectors to strip the defaulted PACE assessment from the tax rolls.

That would force the businesses selling the PACE loans to collect their own debts and that, perhaps, would force them to be careful about whom they sold the loan to in the first place, Kaufman said.

The supervisors' decision will be bad for Kern, Blair McNeill, vice president for market development at PACE loan company Renovate America, said in a statement.

“Without PACE in Kern County, there will be no public-private partnership checking contractor license status, requiring that contractors complete projects to homeowners' satisfaction before they receive payment, and screening out contractors with poor records," he said. "Without PACE in Kern County, jobs will be lost. Without PACE in Kern County, most importantly, homeowners will lose an option to improve their homes, make them more efficient, modern and comfortable.”

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# Supervisors vote to end PACE home-improvement loan program

by Investigative Reporter Kyle Harvey, Eyewitness News

*The PACE home improvement loan program allows homeowners to finance energy-efficiency upgrades by placing a tax lien on their property. (KBAK/KBFX photo, file)*

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**From:** JORDAN KAUFMAN <jkaufman@co.kern.ca.us>
**Sent:** Thursday, June 1, 2017 1:59:29 PM
**To:** Kim Schaefer; Janelle Austin; JONATHON LIFQUIST
**Subject:** Re: Question- PACE Liens

I happen to have this info on hand as I did this analysis right after the stakeholder meeting. Here is the data as of 5/10/17:

Total properties with a PACE assessment: 2,510 (This is different from the number of 3,100 thrown around in the meeting. The difference between the two numbers will show up on next year's tax bill).

Total current year delinquencies for those properties: 72 (2.87% - this is slightly higher than the recent overall delinquency rates of about 2% but not materially higher so it is hard to say if the PACE assessment is a major contributing factor for these delinquencies).

**Total properties that have a prior year defaulted PACE assessment: 2 (There are a total of 59 properties with PACE assessments that have prior year defaults but all of them except 2 occurred prior to when a PACE assessment was put on the bill so while they are in default, that default contains no unpaid PACE assessment.)**

Let me know if you have any questions or require additional information.

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*Kern County Treasurer-Tax Collector*

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I believe that the vast majority of these improvements are completed in a competent manner by honest contractors who represent the program clearly. Unfortunately, this is not always the case, and it is possible to find numerous cases of homeowners being overcharged. Also, there are a number of stories of homeowners who believe the program was misrepresented to them. In the class action suit *Loya v. Western Riverside Council of Governments* the lawyers for the defense argue, (correctly, I believe) that the PACE program is not subject to government oversight in the form of the Truth in Lending Act or The Home Ownership Protection Act. The lawyers also argue that since PACE lenders are not required to determine the borrower's ability to repay, the Consumer Finance Protection Bureau has no say in the process. In short, WRCG lawyers argue that none of the normal consumer protections for home or consumer loans exist for PACE loans. This is true. Typical government oversight is almost nonexistent, but the loans *are* backed by the government, our *local government* in the form of property tax liens.

The reasoning behind the property tax liens is that this is a public good, that energy and water conservation efforts are "necessary to address the issue of global climate change." If true, the program makes sense. But I don't believe incentivizing a program with no consumer protection and demonstrable abuses through government protection of the lien is, on balance, a public good. Many aspects of the program are wonderful, a benefit to local homeowners and boon local contractors, but if the program is to be backed by local government, I believe local government should insist on some safeguards and oversight.

Another problem that I see with the program is the high rate on the loan itself. The tax lien makes this one of the safest instruments that I've encountered, yet the typical loan yields about 8% interest for the lender and APR's average about 10% with some as high as 11.5%. Otherwise unqualified borrowers might see this as a reasonable alternative to a consumer credit loan, but the lenders are making consumer credit rates on secured loans, aided and abetted by the County of Kern.

Maybe the potential downside has been overplayed and foreclosures will never materialize and property owners arguing that they were defrauded will be discredited. The possibility that problems will continue to materialize and possibly get worse is something that I would take into consideration were this my decision to make.

***Jon Lifquist***

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